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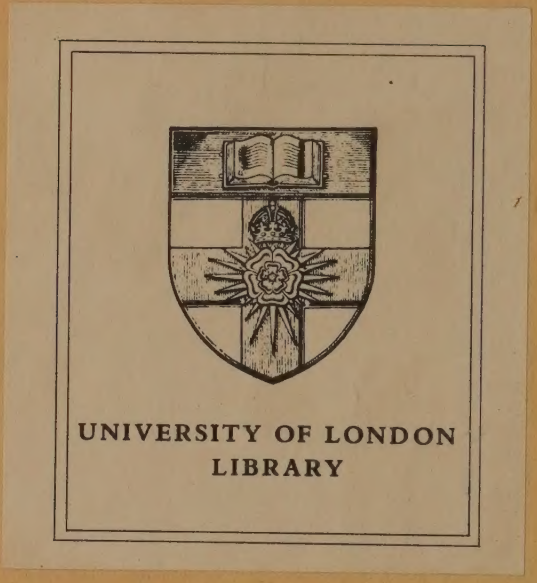

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REPORTS

FROM

COMMITTEES:

SEVEN VOLUMES.

— (3.) —

CHARITY COMMISSION; CHURCH PATRONAGE BILL;
COMMONS; CROWN LANDS BILL;
FEUS AND BUILDING LEASES (SCOTLAND).

Session

12 *March* 1894——25 *August* 1894.

VOL. XI.

1894.

BIBL. LONDIN

REPORTS FROM COMMITTEES:

1894.

SEVEN VOLUMES:—CONTENTS OF THE

THIRD VOLUME.

N.B.—*THE* Figures *at the* beginning of the line, *correspond with the* N° *at the foot of each* Report; *and the* Figures *at the* end of the line, *refer to the* MS. Paging *of the Volumes arranged for the House of Commons.*

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REPORT

FROM THE

SELECT COMMITTEE

ON

CHARITY COMMISSION;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

APPENDIX, AND INDEX.

Ordered, by The House of Commons, *to be Printed,*
16 *July* 1894.

LONDON:
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BY EYRE AND SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.

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221.

Charity Commission.

Ordered,—[*Friday, 30th March* 1894]:—That a Select Committee be appointed to inquire whether it is desirable to take measures to bring the action of the Charity Commission more directly under the control of Parliament, and to give it more effectual means of dealing with the business which will come before it.

Committee nominated—[*Tuesday, 10th April* 1894]—of—

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Jesse Collings.
Mr. Donald Crawford.
Mr. John Ellis.
Mr. Freeman-Mitford.
Mr. Howell.
Mr. H. L. W. Lawson.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

That the Committee have power to send for Persons, Papers, and Records.

That Five be the Quorum of the Committee.

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REPORT.

THE SELECT COMMITTEE appointed to inquire whether it is desirable to take measures to bring the action of the Charity Commission more directly under the control of Parliament, and to give it more effectual means of dealing with the business which will come before it;——HAVE agreed to the following REPORT:—

1. YOUR Committee was appointed to inquire whether it is desirable to take measures to bring the action of the Charity Commission more directly under the control of Parliament, and to give it more effectual means of dealing with the business which will come before it. They have considered these terms of Reference to imply rather an inquiry as to the constitutional relationship of the Charity Commission to Parliament than a detailed examination as to how that body has exercised its powers. This was, indeed, the less necessary, as two Select Committees, in 1884 and 1886-87, inquired fully, and reported at much length, into the work of the Commission under the Charitable Trusts Acts, 1853—1869, and under the Endowed Schools Acts, 1869—1874. Your Committee has therefore, as regards the calling of evidence, largely followed the precedent of the Select Committee on Education, Science, and Art (Administration) in 1884. Sir Henry Longley, the Chief Commissioner, Mr. Richmond and Sir George Young (the two Commissioners added under the Endowed Schools Act), Mr. Fearon (Secretary), Mr. J. W. Lowther, the Hon. Sir Stafford Northcote, Mr. Thomas Ellis, and Mr. Francis Stevenson (four Members of the House of Commons who have filled the office of Parliamentary Charity Commissioner), Lord Welby, the Vice-President of the Committee of the Council of Education, the Permanent Secretary of the Education Department, Lord Justice Davey (for many years Standing Counsel for the Charity Commission), and Mr. Collings (a Member of your Committee) have given evidence.

2. The Charity Commission as it now exists is a body constituted in a two-fold manner, viz.: (a) in relation to Charitable Trusts, and (b) in relation to schools under the Endowed Schools Acts. Constitution.

(a) It derives it powers and is charged with its duties as to the first from the Charitable Trusts Acts, 1853—1891. In the Appendix, No. 1, to the Evidence given before your Committee, will be found a memorandum explaining the legal meaning of the word "charity," and the origin and scope of the relations between the Charity Commission and the Trustees of Charities. In that memorandum, paragraph 18, the powers which it was considered should be conferred upon the Commission are summarised as follow: Charitable Trust Acts. Powers.

(*a*) To inquire into the administration of charities.

(*b*) To compel the production of, and, when produced, to audit the accounts of the expenditure of charity funds.

(*c*) To facilitate the administration of charities, both as to the development of property, and as to the direct execution of the trusts, by supplementing the powers of trustees when defective.

(*d*) To secure the safe custody and due investment of the property of charities.

(*e*) To give ready and effectual expression to the doctrine of *cy-près*, as administered by Courts of Equity, by framing schemes for adapting the administration of charities to the altered circumstances, whether of the charity property, of the locality, or of society generally.

(*f*) To control, to facilitate, and to diminish the cost of legal proceedings taken on behalf of charities. The above powers have been conferred upon the Charity Commission, with the exception of the power to audit accounts.

It is provided by the Act of 1853 that it shall be lawful for Her Majesty by warrant to appoint four Commissioners and one secretary. "Three of the said

"Commissioners shall hold office during good behaviour; and the fourth, and "every secretary shall hold office during the pleasure of Her Majesty." The three Commissioners are Sir Henry Longley, Chief Commissioner, Mr. Alderson, Second Commissioner, appointed in 1885, and Mr. Hope, Third Commissioner, appointed in 1879. The Fourth, and unpaid, Commissioner, who therefore is eligible to, and does, hold a seat in the House of Commons, is now Mr. Francis Stevenson.

Personnel of Commission. Q. 52 to 58.

Procedure. Q. 2019 to 2024.

The procedure for making schemes under the Charitable Trusts Acts can be best understood from the evidence of the Secretary.

Endowed Schools Acts. Q. 781 to 838.

(b) The Endowed Schools Acts, 1869—1874, conferred upon the Charity Commission (to which they added two members) special powers and duties. The investigation and Report of the Schools Inquiry Commission, 1864—1868, was the basis and origin of these Acts. Mr. Richmond laid before your Committee the history and scope of the Acts of 1869, 1873, and 1874, and the policy and practice of the Commission in administering them; and Sir George Young's evidence related mainly to the administration of the Welsh Intermediate Education Act, 1889, which lies within the geographical area under his charge.

Personnel.

Sir George Young and Mr. Richmond are the two Commissioners appointed under these Acts, holding office "during pleasure." As a matter of fact the Endowed Schools Acts are continued in their operation by the "Expiring Laws Continuation Act," passed annually. Here again the procedure can be best understood by reference to the answers of the Secretary of the Charity Commission. Inasmuch, however, as at a certain stage the schemes pass over to the Education Department, the evidence of the Permanent Secretary of that Department should also be referred to.

Procedure. Q. 2037 to 2046. Q. 3498 to 3537.

Powers over Educational Endowments.

3. It should be carefully observed in considering the powers and duties of the Charity Commission that their authority over Educational Endowments is not derived wholly, or even mainly, from the Endowed Schools Acts; indeed the Charitable Trusts Acts give them a much older and more permanent although more limited jurisdiction in this respect. The trustees or governing bodies of these endowments must render yearly accounts to the Commissioners, and are, in administering the endowments, under certain legal disabilities, for relief from which they must have recourse to the powers conferred by these Acts on the Commissioners. These legal disabilities affect the trustees or governing bodies at almost every point of the educational administration of the endowments. The Report of the Select Committee of 1886 (pages 469-70) contains a memorandum from the Charity Commission giving an analysis of the principal provisions of schemes made under the Charitable Trusts Acts, amending original schemes made under the Endowed Schools Acts. This shows how important in that one branch alone is the educational work of the Commissioners under the Charitable Trusts Acts.

Q. 1997 to 2009.

General Staff of the Commission.

4. The Charity Commissioners have at their disposal the following staff:—

One Secretary.

Two Assistant-Secretaries, being also Assistant-Commissioners and official trustees of Charitable Funds.

Eight Assistant Commissioners, besides one employed for five years, and five others temporarily employed.

Four Principal Clerks.

Two Accountants.

With about 50 other clerks and a certain number of messengers.

5. The cost of the Charity Commission has been as follows for the three years in question:—

Financial Year.	1879–80.	1884–85.	1894–95.
	£.	£.	£.
Under Charitable Trusts Acts - - -	21,861	23,579	30,742
Under Endowed Schools Acts - - -	7,838	6,942	9,638
TOTAL - - - £.	29,699	30,521	40,380

6. It

6. It can scarcely be doubted that various causes have co-operated to make some re-constitution of the Charity Commission inevitable, and that the provision of additional means to enable the work now entrusted to that body to be satisfactorily dealt with is also necessary.

The great political, social, and industrial changes of the last 20 years have given rise to new desires and new wants in matters connected with endowments. The Local Government Acts of 1888 and 1894, with their extension of self-government to the parish, district, and county promise to give free play to those local forces, the ultilisation of which was so much desired by those concerned with the origin of the Endowed Schools Acts. The question of secondary education has been referred to a Royal Commission, and will doubtless receive moulding and form at their hands. With reference to educational schemes prepared by the Charity Commissioners, and submitted for approval to the Education Department, the evidence of the Vice-President of the Council and the Permanent Secretary of the Education Department has disclosed features in the methods of procedure between the two public Departments which have convinced your Committee that they are cumbrous, unsatisfactory, and not conducive to adequate Ministerial control or responsibility. Q. 2970. 3015. 3021. 3031. 3044. 3264.

Various suggestions, involving legislative changes, have been made to your Committee on behalf of the Commission by Sir Henry Longley and Mr. Fearon. Other points also, such as greater powers to audit and compel the return of accounts; a possible contribution by charities towards the cost of the central authority; various recommendations by the Committees of 1884 and 1886 (such as the initiation of Schemes by local authorities); the removal of the 50*l.* limit, above which the Charity Commissioners cannot act, except upon the application of trustees inserted in the Act of 1860; a consolidation of the whole of the Charitable Trusts Acts and the Endowed Schools Acts; powers of inspection of Schemes prepared by the Charity Commission under the said Acts; were suggested in the evidence given to your Committee. Without now expressing a definite opinion thereon, your Committee regard them as worthy of consideration, and, in some cases, necessary for the due development of the work. Q. 3908, 3909, 3910. 2697.

7. Your Committee are persuaded that any unpopularity which may attach to the Charity Commission in the minds of the public and Parliament, with the consequent increasing criticism to which it is subjected in both quarters, arises largely apart from any personal constitution of the Commission, and, to some extent, independently of the manner in which its business is transacted. They desire to express their opinion that, in recent years especially, a juster sense of the requirements of public opinion has actuated the administration of the work of the Commission, and that on the whole the country has benefited greatly by its labours. They believe that in the persons of the Commissioners and their secretary may be found some of the most capable and assiduous members of the Civil Service.

8. The weakness above indicated arises in some degree possibly from a want of accurate knowledge on the part of the public and Parliament of the work of the Commission, but also from that jealousy on the part of Parliament of public departments not brought in the usual way under its control. The position of the Charity Commission has now become somewhat analogous to that of the old Poor Law Commission, which it was found necessary to dissolve in 1847, and replace under a Minister.

9. The reconstitution of the Charity Commission is no new proposal, and has arisen in various ways during the last seven or eight years. Before the year 1887 the Treasury had held the opinion that the Charity Commission was "somewhat top-heavy," that is to say, "very unusually manned at the top," and in its constitution somewhat "antiquated." Q. 3347.
In 1887 the late Mr. Smith (then First Lord of the Treasury) took the question up himself and passed a very important Minute on the subject, in which (to quote Lord Welby's words) "he took, by way of expressing his strong opinion, a rather unusual course." This Minute will be found in the Appendix No. 17, and it is, in the view of your Committee, a most important document. It was communicated officially to the Charity Commission, but does not seem to have led to any effective action on their part in the direction desired. The question slept for several years, but it 1891 a request for further means to carry out the work was again made by the Chief Commissioner to the First Lord of the Treasury. Mr. Smith took the view that the Charity Commission should be pressed on the subject of the Minute of 1887, and that there ought not to be any longer delay in coming to an understanding with them on the point raised by it. Lord Welby's evidence states the Treasury view of what subsequently took place, and that of the Charity Commission was given to your Committee by Sir Henry Longley. It is sufficient to say here that Mr. Smith's health failed rapidly, and that he died without Q. 3351. Q. 3356. Q. 3915. 3926.

the matter being brought to a conclusion. The view taken by Mr. Smith is still maintained by the Treasury, and they regard some agreement on this point as precedent to any further means for carrying on the developing work of the Commission.

Q. 3946. 3952. 10. The Chief Commissioner, when re-examined at his request on 27th June, has suggested that the legal and educational work of educational endowments might be separated, that whilst the first might be retained by the Charity Commission, the second should be transferred to the Education Minister, who, as he acknowledges, is now Q. 3947. near at hand. Sir Henry Longley's idea is: "That the Charity Commissioners might well continue to manage the trusts as trusts, the trusts for secondary education simply as trusts from their legal point of view, that we should still prepare the schemes that I think are essential (that was the blot in the original division between the Charity Commission and the Endowed Schools Commission), as we do in the case of endowments for elementary education; but that, as in that case, so in this, we should defer educationally to the Minister of Education; he would provide us with our educational materials for making the scheme." Sir Henry Longley was careful to point out, more than once, that his proposal was made as from an individual, and not in any way in a representative capacity. Your Committee do not think that this more or less tentative suggestion would meet the requirements of the case they are considering. They are satisfied that it would give rise, both as regards the central authority, trustees, local authorities, and the public, to difficulties such as attended the procedure of the Endowed Schools Commission between Q. 304. 1869–1874, which "led to delay, and worse than delay, to error," and which it was found necessary to end by the dissolution of the Commission. Your Committee are of opinion that if any change in the Parliamentary position of the Charity Commission is to be made, one single Minister should be responsible to Parliament both for Charitable Trusts and for the work under the Endowed Schools Act, and your Committee agree that a Minister, or Ministers, should be responsible to Parliament for the whole work of the Commission, provided always that necessary safeguards are secured for the rights, benefits and privileges of the poorer classes in the trusts and endowments dealt with by the Charity Commission.

11. In 1884 a Select Committee recommended (after inquiring into the administration of Education, Science and Art): "That a Board of (or Committee of Council for) "Education should be constituted under a President, who should be the real as well as "nominal Minister. That the duties of this Minister should be recognised as not less "important than those of some of the Secretaries of State. The Minister of Education "should have the assistance of a Parliamentary Secretary, able to sit in either House of "Parliament." They also recommend that he should be charged with a general supervision of endowed schools. The Select Committee of 1886–87 on the Endowed Schools Act endorsed this recommendation.

12. It is on the lines of a development of these recommendations that your Committee believe the change requisite must be made; and they therefore arrive, after careful consideration of the whole matter, at the conclusion that to the position and functions of the new Minister of Education recommended by previous Committees of your House there should be added the control of endowments. Such a Minister would be really, as well as technically, responsible for the schemes which he presented to Parliament. He would be in a position to defend the Estimates of his Department on their merits; and he would be able to bring pressure to bear on the Treasury, in order to secure needful provision for his work.

13. Your Committee do not think that, with proper arrangements, the transfer of that part of the work discharged by the Commission which may be deemed to be of a judicial or quasi-judicial character presents an insoluble difficulty. On careful examination and analysis a considerable portion of it would appear very similar to that now transacted by other Government Departments, which have in the department, and subordinate to the Minister, competent legal advisers. It consists of decisions into which the element of administrative discretion very largely enters. Should such a transfer as is contemplated by your Committee be made, it would be necessary to furnish the Minister of Education with the assistance of a small board or council of experienced legal advisers. In all cases of appeal to the Chancery Division and the superior Courts this board or council of secondary education and endowments might appear as the defendants, appellants, or respondents. This is the course now pursued in the case of the Inland Revenue, of which (to use Lord Welby's expression) "the Chancellor of the Exchequer is the supreme head and master." It is

to

to be observed that at the present moment there is an appeal from the decisions of the head of the Education Department under the Endowed Schools Acts to the Judicial Committee of the Privy Council, in which, somewhat curiously, the Charity Commission and not the Minister appears. Experience, however, has shown that appeals from the Charity Commission given by statute to the Chancery Division tend to decrease. Your Committee cannot but believe that the risk of such a contingency has been over-estimated, having regard to the experienced advice which would be at his disposal, and to the character, qualifications, and discretion which would surely be possessed by a minister of such high position.

14. In the Reports of the Charity Commissioners, 1889–90, constant reference is made to the new conditions of their work, due to the creation of elective and responsible local authorities in the counties of England and Wales, under the Local Government Act, 1888. The measure of this year, calling District and Parish Councils into existence, increases the force and scope of this change. In their 38th Report the Charity Commissioners say, "We have readily availed ourselves of the opportunity at length afforded by the creation of representative authorities for the country at large to secure that measure of local support in our dealings with individual endowments, for which we have long hoped," by forwarding draft schemes for the regulation of local charities within their areas to the county councils, as, since 1884, had been done in the case of municipal corporations. Your Committee think that this practice should be followed in all cases, and that all draft schemes should be submitted to these bodies for comment and advice, and that any recommendations made by these authorities should be carefully weighed and considered in amending the schemes.

15. Your Committee have been impressed with the importance of the matters submitted to their consideration, and are sensible of the difficulties surrounding the subject. They are, however, satisfied that the present state of things cannot be much longer prolonged. Its inherent difficulties must grow and become more acute, and your Committee think that an attempt should be made without delay in the direction indicated to grapple with them. The precise form which the new arrangements should take would of course require to be embodied in a Bill after careful consideration by a responsible Government. Your Committee therefore do not consider it lies with them to pursue the matter here in further detail. But they submit their recommendations as indicating the lines on which the objects of the inquiry referred to them may be achieved, namely, those of securing for Parliament greater control over the work which arises under the Charitable Trusts, Endowed Schools, and other Acts bearing upon them, and of providing for the strengthening and development of that important work to the benefit of the community at large.

16 *July* 1894.

PROCEEDINGS OF THE COMMITTEE.

Monday, 16*th April* 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.	Mr. Howell.
Mr. John Ellis.	Mr. Freeman-Mitford.
Mr. Donald Crawford.	Sir Stafford Northcote.
Mr. H. Lawson.	Mr. Strachey.
Sir Andrew Scoble.	Mr. Oldroyd.
Mr. Wickham.	Mr. George Russell.
Mr. Griffith-Boscawen.	

Mr. JOHN ELLIS was called to the Chair.

The Committee deliberated.

[Adjourned till Friday next, at Twelve o'clock.

Friday, 20*th April* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Sir Stafford Northcote.	Mr. Jesse Collings.
Mr. Griffith-Boscawen.	Mr. Strachey.
Mr. Wickham.	Mr. H. Lawson.
Mr. Donald Crawford.	Mr. Egerton Allen.
Mr. Howell.	Mr. George Russell.
Mr. Oldroyd.	Sir Andrew Scoble.

Sir *Henry Longley*, K.C.B., was examined.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 25*th April* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Sir Stafford Northcote.	Mr. George Russell.
Sir Andrew Scoble.	Mr. H. Lawson.
Mr. Donald Crawford.	Mr. Egerton Allen.
Mr. Griffith-Boscawen.	Mr. Strachey.
Mr. Oldroyd.	Mr. Wickham.

Sir *Henry Longley*, K.C.B., was further examined.

[Adjourned till Friday next, at One o'clock.

Friday, 27th April 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Sir Stafford Northcote.	Mr. H. Lawson.
Mr. Howell.	Mr. Strachey.
Mr. Oldroyd.	Mr. Egerton Allen.
Mr. Wickham.	Sir Andrew Scoble.
Mr. Donald Crawford.	

Sir *Henry Longley*, K.C.B., was further examined.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 2nd May 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Sir Stafford Northcote.	Mr. George Russell.
Mr. Howell.	Mr. Egerton Allen.
Mr. Strachey.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. Freeman-Mitford.	Mr. Donald Crawford.
Mr. H. Lawson.	Mr. Griffith-Boscawen.
Mr. James William Lowther.	

Mr. *Douglas Close Richmond* was examined.

[Adjourned till Friday next, at Twelve o'clock.

Friday, 4th May 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. Wickham.	Mr. James William Lowther.
Mr. Freeman-Mitford.	Mr. Strachey.
Mr. Donald Crawford.	Mr. Egerton Allen.
Mr. Howell.	Mr. H. Lawson.
Mr. Oldroyd.	Mr. George Russell.
Sir Stafford Northcote.	Mr. Griffith-Boscawen.

Mr. *Douglas Close Richmond* was further examined.

Sir *George Young*, Bart., was examined.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 9th May 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Sir Stafford Northcote.	Mr. Donald Crawford.
Mr. H. Lawson.	Mr. Jesse Collings.
Mr. George Russell.	Mr. Egerton Allen.
Mr. Griffith-Boscawen.	Mr. Oldroyd.
Mr. James William Lowther.	Mr. Freeman-Mitford.
Sir Andrew Scoble.	Mr. Howell.
Mr. Wickham.	

Sir *George Young*, Bart., was further examined.

[Adjourned till Wednesday, 23rd May, at Twelve o'clock.

Wednesday, 23rd May 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. Griffith-Boscawen.	Mr. Wickham.
Sir Andrew Scoble.	Mr. H. Lawson.
Mr. Donald Crawford.	Mr. Oldroyd.
Mr. Strachey.	Mr. James William Lowther.
Mr. Howell.	Mr. Egerton Allen.

Sir *George Young*, Bart., was further examined.

Mr. *Daniel Robert Fearon* was examined.

[Adjourned till Friday next, at Twelve o'clock.

Friday, 25th May 1894.

MEMBERS PRESENT

Mr. JOHN ELLIS in the Chair.

Mr. Donald Crawford.	Mr. Wickham.
Mr. Howell.	Mr. Egerton Allen.
Mr. Oldroyd.	Mr. Strachey.
Mr. Jesse Collings.	Mr. James William Lowther.
Mr. Freeman-Mitford.	Sir Andrew Scoble.

Mr. *Daniel Robert Fearon* was further examined.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 30*th May* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Sir Stafford Northcote.	Mr. Egerton Allen.
Mr. Oldroyd.	Mr. Howell.
Mr. Strachey.	Mr. Wickham.
Sir Andrew Scoble.	Mr. Griffith-Boscawen.
Mr. Freeman-Mitford.	Mr. Donald Crawford.
Mr. George Russell.	Mr. Jesse Collings.
Mr. James William Lowther.	

Mr. *Daniel Robert Fearon* was further examined.

Mr. *James William Lowther*, a Member of the Committee, was examined.

[Adjourned till Friday next, at Twelve o'clock.

Friday, 1*st June* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. Griffith-Boscawen.	Mr. Oldroyd.
Mr. Egerton Allen.	Mr. Jesse Collings.
Mr. George Russell.	Mr. James William Lowther.
Mr. Donald Crawford.	Sir Stafford Northcote.
Mr. Howell.	Mr. Wickham.
Mr. Strachey.	

Mr. *James William Lowther*, a Member of the Committee, and Mr. *Daniel Robert Fearon*, C.B., were further examined.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 6*th June* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Sir Stafford Northcote.	Mr. Egerton Allen.
Sir Andrew Scoble.	Mr. Oldroyd.
Mr. Freeman-Mitford.	Mr. Howell.
Mr. George Russell.	Mr. James William Lowther.
Mr. Strachey.	Mr. Wickham.

Mr. *Daniel Robert Fearon*, C.B., was further examined.

Sir *Stafford Northcote*, a Member of the Committee, Mr. *Thomas Ellis*, and Mr. *Francis Stevenson*, Members of the House, were examined.

[Adjourned till Friday next, at Twelve o'clock

Friday, 8*th June* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. James William Lowther.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. Egerton Allen.
Mr. Wickham.	Mr. Strachey.
Sir Stafford Northcote.	Mr. H. Lawson.

The Right Honourable *Arthur Herbert Dyke Acland*, a Member of the House, was examined.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 13*th June* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. H. Lawson.	Mr. Egerton Allen.
Mr. James William Lowther.	Mr. George Russell.
Mr. Donald Crawford.	Mr. Howell.
Sir Stafford Northcote.	Mr. Freeman-Mitford.
Mr. Oldroyd.	Sir Andrew Scoble.
Mr. Jesse Collings.	Mr. Griffith-Boscawen.
Mr. Strachey.	Mr. Wickham.

The Right Honourable *Arthur Herbert Dyke Acland*, a Member of this House, was further examined.

The Lord *Welby*, G.C.B. (attending by permission of the House of Lords), was examined.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 20*th June* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. Wickham.	Mr. Egerton Allen.
Mr. George Russell.	Mr. James William Lowther.
Mr. Donald Crawford.	Mr. Jesse Collings.
Mr. Strachey.	Mr. Freeman-Mitford.
Sir Stafford Northcote.	Mr. Griffith-Boscawen.
Sir Andrew Scoble.	

Mr. *Edward Tigar* and Mr. *George William Kekewich*, C.B., were examined.

[Adjourned till Friday next, at Twelve o'clock.

Friday, 22*nd June* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. Egerton Allen.	Mr. Oldroyd.
Mr. Jesse Collings.	Mr. Freeman-Mitford.
Mr. Howell.	Mr. James William Lowther.
Sir Stafford Northcote.	Mr. Wickham.

Mr. *Jesse Collings*, a Member of the Committee, was examined.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 27*th June* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Sir Stafford Northcote.	Mr. Oldroyd.
Mr. Griffith-Boscawen.	Mr. Jesse Collings.
Sir Andrew Scoble.	Mr. Strachey.
Mr. George Russell.	Mr. Howell.
Mr. H. Lawson.	Mr. Wickham.
Mr. James William Lowther.	Mr. Donald Crawford.
Mr. Egerton Allen.	

Sir *Henry Longley*, K.C.B., was further examined.

Lord Justice *Davey* was examined.

[Adjourned till To-morrow, at Two o'clock.

Thursday, 28*th June* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. Griffith-Boscawen.	Mr. Oldroyd.
Mr. Donald Crawford.	Mr. Egerton Allen.
Mr. Howell.	

Sir *Henry Longley*, K.C.B., was further examined.

[Adjourned till Wednesday, 11th July, at Twelve o'clock.

Wednesday, 11*th July* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. H. Lawson.	Mr. James William Lowther.
Sir Stafford Northcote.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Sir Andrew Scoble.
Mr. Howell.	Mr. George Russell.
Mr. Strachey.	Mr. Wickham.
Mr. Oldroyd.	Mr. Freeman-Mitford.
Mr. Egerton Allen.	

DRAFT REPORT proposed by the Chairman, brought up, and read the first time, as follows:

"1. Your Committee was appointed to inquire whether it is desirable to take measures to bring the action of the Charity Commission more directly under the control of Parliament, and to give it more effectual means of dealing with the business which will come before it. They have considered these terms of reference to imply rather an inquiry as to the constitutional relationship of the Charity Commission to Parliament than a detailed examination as to how that body has exercised its powers. This was, indeed, the less necessary, as two Select Committees, in 1884 and 1886-87, inquired fully, and reported at much length, into the work of the Commission under the Charitable Trusts Acts, 1853—1869, and under the Endowed Schools Acts, 1869—1874. Your Committee has therefore, as regards the calling of evidence, largely followed the precedent of the Select Committee on Education, Science, and Art (Administration) in 1884. Sir Henry Longley, the Chief Commissioner, Mr. Richmond and Sir George Young (the two Commissioners added under the Endowed Schools Act), Mr. Fearon (Secretary), Mr. J. W. Lowther, the Hon. Sir Stafford Northcote, Mr. Thomas Ellis, and Mr. Francis Stevenson (four Members of the House of Commons who have filled the office of Parliamentary Charity Commissioner), Lord Welby, the Vice-President of the Committee of the Council of Education, the Permanent Secretary of the Education Department, Lord Justice Davey (for many years Standing Counsel for the Charity Commission), and Mr. Collings (a Member of your Committee) has given evidence.

Constitution.

"2. The Charity Commission as it now exists is a body constituted in a two-fold manner, viz.: (a) in relation to Charitable Trusts, and (b) as dealing with Endowed Schools.

Charitable Trust Acts.

"(a) It derives its powers and is charged with its duties as to the first from the Charitable Trusts Acts, 1853—1869. In the Appendix, No. 1, of this Report will be found a memorandum explaining the legal meaning of the word "charity," and the origin and scope of the relations between the Charity Commission and the Trustees of Charities. In that memorandum, paragraph 18, the powers of the Commission are summarised as follow:

Powers.

"(*a*) To inquire into the administration of charities.

"(*b*) To compel the production of, and, when produced, to audit the accounts of the expenditure of charity funds.

"(*c*) To facilitate the administration of charities, both as to the development of property, and as to the direct execution of the trusts, by supplementing the powers of trustees when defective.

"(*d*) To secure the safe custody and due investment of the property of charities.

"(*e*) To give ready and effectual expression to the doctrine of *cy-près*, as administered by Courts of Equity, by framing schemes for adapting the administration of charities to the altered circumstances, whether of the charity property, of the locality, or of society generally.

"(*f*) To control, to facilitate, and to diminish the cost of legal proceedings taken on behalf of charities.

"It is provided by the Act of 1853 that it shall be lawful for Her Majesty by warrant to appoint four Commissioners and one secretary, 'Three of the said Commissioners 'shall hold office during good behaviour; and the fourth, and every secretary shall 'hold office during the pleasure of Her Majesty.' The three Commissioners are Sir Henry Longley, Chief Commissioner, Mr. Alderson, Second Commissioner, appointed in 1885, and Mr. Hope, Third Commissioner, appointed in 1879. The Fourth, and unpaid, Commissioner, who therefore is eligible to, and does, hold a seat in the House of Commons, is now Mr. Francis Stevenson.

Personnel of Commission. Q. 52 to 58.

"The procedure for making schemes under the Charitable Trusts Acts can be best, and only, understood accurately from the evidence of the secretary.

Procedure. Q. 2019 to 2024.

"(b) The Endowed Schools Acts, 1869—1874, conferred upon the Charity Commission (to which they added two members) special powers and duties. The investigation and Report of the Schools Enquiry Commission, 1864—1868, was the basis and origin of these Acts. Mr. Richmond laid before your Committee the history and scope of the Acts of 1869, 1873, and 1874, and the policy and practice of the Commission in administering them; and Sir George Young's evidence related mainly to the administration of the Welsh Intermediate Education Act 1889, which lies within the geographical area under his charge. Sir George Young and Mr. Richmond are the two Commissioners appointed under these Acts, holding office 'during pleasure.' As a matter of fact the Endowed Schools Acts are continued in their operation by the 'Expiring Laws Continuation Act,' passed annually. Here again the procedure can be best understood by reference to the answers of the Secretary of the Charity Commission. Inasmuch, however, as at a certain stage the schemes pass over to the Education Department, the evidence of the Permanent Secretary of that Department should also be referred to.

Endowed Schools Acts. Q. 781 to 838.

Personnel.

Procedure. Q. 2037 to 2046. Q. 3498 to 3537.

Powers over Educational Endowments.

"3. It should be carefully observed in considering the powers and duties of the Charity Commission that their authority over Educational Endowments is not derived wholly, or even

even mainly, from the Endowed Schools Acts; indeed the Charitable Trusts Acts give them a much older and more permanent jurisdiction in this respect. The trustees or governing bodies of these endowments must render yearly accounts to the Commissioners, and are, in administering the endowments, under certain legal disabilities for relief, from which they must have recourse to the powers conferred by these Acts on the Commissioners. These legal disabilities affect the trustees or governing bodies at almost every point of the educational administration of the endowments. The Report of the Select Committee of 1886 (pages 469–70) contains a memorandum from the Charity Commission giving an analysis of the principal provisions of schemes made under the Charitable Trusts Acts, amending original schemes made under the Endowed Schools Acts. This shows how important in that one branch alone is the educational work of the Commissioners under the Charitable Trusts Acts.

Q. 1997 to 2009.

"4. The Charity Commissioners have at their disposal the following staff:—

General Staff of the Commission.

"One Secretary.
"Two Assistant-Secretaries, being also Assistant-Commissioners and official trustees of Charitable Funds.
"Eight Assistant-Commissioners, besides one temporarily employed for five years, "and five others temporarily employed.
"Four Principal Clerks.
"Two Accountants.

"With about 50 other clerks and a certain number of messengers.

"5. The cost of the Charity Commission has been as follows for the three years in question:—

Financial Year.	1879–80.	1884–85.	1894–95.
	£.	£.	£.
Under Charitable Trusts Acts - - -	21,861	23,579	30,742
Under Endowed Schools Acts - - -	7,838	6,942	9,638
TOTAL - - - £.	29,699	30,521	40,380

"6. It can scarcely be doubted that whilst, on the one hand, various causes have co-operated to make some re-constitution of the Charity Commission inevitable, on the other, the provision of additional means to enable the work now entrusted to that body to be satisfactorily dealt with is also necessary.

"The great political, social, and industrial changes of the last 20 years have given rise to new desires and new wants in matters connected with endowments. The Local Government Acts of 1888 and 1894, with their extension of self-government to the parish, district, and county promise to give free play to those local forces, the utilisation of which was so much desired by those concerned with the origin of the Endowed Schools Acts. The question of secondary education is slowly but surely emerging from confusion, and will doubtless receive moulding and form from the labours of the Royal Commission now sitting. In this connection, too, the evidence of the Vice-President of the Council and the Permanent Secretary of the Education Department has disclosed features in the methods of procedure between the two public Departments which have convinced your Committee that they are cumbrous, unsatisfactory, and not conducive to adequate Ministerial control or responsibility.

Q. 2970. 3015. 3021. 3031. 3044. 3264.

"On the other hand, various suggestions, involving legislative changes, have been made to your Committee on behalf of the Commission by Sir Henry Longley and Mr. Fearon. Other points also, such as greater powers to audit and compel the return of accounts; a possible contribution by charities towards the cost of the central authority; various recommendations by the Committees of 1884 and 1886 (such as the initiation of Schemes by local authorities); the removal of the 50*l.* limit inserted, by amendment, in the Act of 1860; a consolidation of the whole of the Charitable Trusts Acts and the Endowed Schools Acts, cropped up in the evidence given to your Committee. Without now expressing a definite opinion thereon, your Committee consider them all worthy of consideration, and possibly necessary for the due development of the work. Your Committee are satisfied, however, that as things now stand, it would be hopeless to present a Bill, proposing any such additional powers to the House of Commons.

Q. 3908, 3909, 3910. 2697.

"7. In the opinion of your Committee greater Parliamentary control must precede any legislative changes granting further powers to deal with the business now entrusted to the Charity Commission. Your Committee think it cannot be denied that the Charity Commission has not at its back at the present moment that support of an approving public opinion which in this country is the only sure basis for the successful working of any public department. This weakness is naturally reflected in Parliament. Schemes are attacked and perfunctorily defended. Bills urgently needed are not brought forward, or, being introduced, are allowed to drop; and further necessary provision is successfully refused by the Treasury. The Estimates

for the Commission do not appear to have any Minister really responsible for defending them
Q. 3701. on their merits, a remark greatly emphasised by an investigation into the discussions in, and division lists of the House of Commons in recent years.

" 8. Your Committee are persuaded that this state of things arises largely apart from any personal constitution of the Commission, and, to some extent, independently of the manner in which a great part of its business is transacted. They desire to express their opinion that, in recent years especially, a juster sense of the requirements of enlightened public opinion has actuated the administration of the work of the Commission, and that on the whole the country has benefited greatly by its labours. They believe that in the persons of the Commissioners and their secretary may be found some of the most capable and assiduous of those members of the Civil Service of which the nation may justly be proud.

" 9. The weakness above-mentioned arises in some degree possibly from a want of accurate knowledge on the part of the public and Parliament of the work of the Commission, but also from that jealousy on the part of Parliament of public departments not brought in the usual way under its control. The position of the Charity Commission has now become somewhat analogous to that of the old Poor Law Commission, which it was found necessary to dissolve in 1847, and replace under a Minister. In the debates on the Bill for this purpose in 1847, Mr. Disraeli used the following language :—

Q. 3325. " When we look at the nature of our Parliamentary Constitution, we shall find that ' attempts to carry on the business of the country without the interference by Parlia- ' ment, the palpable interference of Parliament, have always proved a failure.'

" 10. The reconstitution of the Charity Commission is no new proposal, and has arisen in various ways during the last seven or eight years. Before the year 1887 the Treasury had
Q. 3347. held the opinion that the Charity Commission was ' somewhat top-heavy,' that is to say, ' very unusually manned at the top,' and in its constitution somewhat ' antiquated.' In 1887 the late Mr. Smith (then First Lord of the Treasury) took the question up himself and passed a very important Minute on the subject, in which (to quote Lord Welby's words)
Q. 3351. ' he took, by way of expressing his strong opinion, a rather unusual course.' This Minute will be found in the Appendix No. 17, and it is, in the view of your Committee, a most important document. It was communicated officially to the Charity Commission, but does not seem to have led to any effective action on their part in the direction desired. The question slept for several years, but in 1891 a request for further means to carry out the work
Q. 3356. was again made by the Chief Commissioner to the First Lord of the Treasury. Mr. Smith took the view that the Charity Commission should be pressed on the subject of the Minute of 1887, and that there ought not to be any longer delay in coming to an understanding with them on the point raised by it. Lord Welby's evidence tells the story of what subsequently took place. It is sufficient to say here that Mr. Smith's health failed rapidly, and that he died without the matter being brought to a conclusion. The view taken by Mr. Smith is still maintained by the Treasury, and they regard some agreement on this point as precedent to any further means for carrying on the developing work of the Commission.

Q. 3946. 3952. " 11. The Chief Commissioner, when re-examined at his request on 27th June, has suggested that the legal and educational work of educational endowments might be separated, that whilst the first might be retained by the Charity Commission, the second should be transferred to the Education Minister, whom he acknowledges is now near at hand. Sir
Q. 3947. Henry Longley's idea is : ' That the Charity Commissioners might well continue to manage the trusts as trusts, the trusts for secondary education simply as trusts from their legal point of view, that we should still prepare the schemes that I think are essential (that was the blot in the original division between the Charity Commission and the Endowed Schools Commission), as we do in the case of endowments for elementary education ; but that, as in that case, so in this, we should defer educationally to the Minister of Education ; he would provide us with our educational materials for making the scheme.' Sir Henry Longley was careful to point out, more than once, that his proposal was made as from an individual, and not in any way in a representative capacity. Your Committee do not think that this more or less tentative suggestion would meet the requirements of the case they are considering. They are satisfied that it would give rise, both as regards the central authority, trustees, local authorities, and the public, to difficulties such as attended the procedure of the Endowed
Q. 304. Schools Commission between 1869—1874, which ' led to delay, and worse than delay, to error,' and which it was found necessary to end by the dissolution of the Commission. Your Committee entirely concur with the opinion expressed by Sir Henry Longley before the Committee of 1884, and reiterated by him on 27th April, that if any change in the Parlia-
Q. 684. mentary position of the Charity Commission is to be made, one single Minister should be responsible both for the charitable trusts work and for the work under the Endowed Schools Act.

" 12. In 1884 a Select Committee recommended (after inquiring into the administration of Education, Science and Art) : ' That a board of (or committee of council for) education ' should be constituted under a president, who should be the real as well as nominal Minister. ' That the duties of this Minister should be recognised as not less important than those of some ' of the Secretaries of State. The Minister of Education should have the assistance of a ' Parliamentary secretary, able to sit in either House of Parliament.' They also recommend that he should be charged with a general supervision of endowed schools. The Select Committee of 1886–87 on the Endowed Schools Act endorsed this recommendation.

" 13. It

"13. It is on the lines of a development of these recommendations that your Committee believe the change requisite must be made; and they therefore arrive, after careful consideration of the whole matter, at the conclusion that to the position and functions of the new Minister of Education recommended by previous Committees of your House there should be added the control of endowments.

"14. Your Committee do not think that, with proper arrangements, the transfer of that part of the work discharged by the Commission which may be deemed to be of a judicial or quasi-judicial character presents an insoluble difficulty. On careful examination and analysis a considerable portion of it would appear very similar to that now transacted by other Government Departments, which have in the department, and subordinate to the Minister, competent legal advisers. It consists of decisions into which the element of administrative discretion very largely enters. Should such a transfer as is contemplated by your Committee be made, it would be necessary to furnish the Minister of Education with the assistance of a small board or council of experienced legal advisers. In all cases of appeal to the Chancery Division and the superior Courts this board or council of secondary education and endowments might appear as the defendants, appellants, or respondents. This is the course now pursued in the case of the Inland Revenue, of which (to use Lord Welby's expression) 'the Chancellor of the Exchequer is the supreme head and master.' It is to be observed that at the present moment there is an appeal from the decisions of the head of the Education Department under the Endowed Schools Acts to the Judicial Committee of the Privy Council, in which, somewhat curiously, the Charity Commission and not the Minister, appears. Experience, however, has shown that appeals from the Charity Commission given by Statute to the Chancery Division tend to decrease. Your Committee cannot but believe that the risk of such a contingency has been over-estimated, having regard to the experienced advice which would be at his disposal, and to the character, qualifications, and discretion which would surely be possessed by a minister of such high position.

"15. Your Committee approve (as further security for Parliamentary control) of the recommendation by the Select Committee of 1884 of a Standing Committee of the House of Commons, to examine schemes of a certain class; but they would extend the limits of that class as there laid down.

"16. Your Committee have been impressed with the importance of the matters submitted to their consideration, and are sensible of the difficulties surrounding the subject. They are, however, satisfied that the present state of things cannot be much longer prolonged. Its inherent difficulties must grow and become more acute, and your Committee think that an attempt should be made without delay in the direction indicated to grapple with them. The precise form which the new arrangements should take would of course require to be embodied in a Bill after careful consideration by a responsible Government. Your Committee therefore do not consider it lies with them to pursue the matter here in further detail. But they suggest with some confidence their recommendations as indicating the lines on which the objects of the inquiry submitted to them may be achieved, of securing for Parliament greater control over the work which arises under the Charitable Trusts, Endowed Schools, and other Acts bearing upon them, and of providing for the strengthening and development of that important work to the benefit of the community at large."

Draft Report, prepared by Mr. *James William Lowther*, brought up, and read the first time, as follows:

"1. The Order of Reference to your Committee falls naturally into two divisions—

"A. The desirability or otherwise of a more direct control by Parliament over the proceedings of the Charity Commission; and

"B. What more effectual means, if any, should be provided for the Charity Commission to enable it properly to carry out the duties which Parliament has imposed upon it?

"In considering the constitution of the Charity Commission and its relation towards Parliament, it is necessary to distinguish between the work of the Charity Commission (1) under the Charitable Trusts Acts, and (2) that under the Endowed Schools Acts: the latter was specially assigned to the Charity Commission by the Endowed Schools Act, 1874, which also abolished the Endowed Schools Commissioners as a separate body.

"A. (1) The Charity Commission was constituted by the Charitable Trusts Acts, 1853, and the powers originally conferred upon it were amplified and amended by subsequent Acts, viz., Charitable Trusts Act, 1855; Charitable Trusts Act, 1860; Charitable Trusts Act, 1869; Charitable Trusts Act, 1887, and Charitable Trusts Recovery Act, 1891.

"It is unnecessary to enter at any length into an examination of the several powers conferred by those Acts. They may be summarized as follows:—

"Power to inquire into the administration of charities. Longley, Q. 16. Appendix, No. 4.

"Power to compel the production of the accounts of the expenditure of charity funds.

"Power to facilitate the administration of charities both as to the development of property and as to the direct execution of the trusts by supplementing the powers of trustees when defective.

"Power to secure the safe custody and due investment of the property of charities.

"Power to give ready and effectual expression to the doctrine of *cy-près* as administered by

courts of equity by framing schemes for adapting the administration of charities to the altered circumstances, whether of the charity property, of the locality, or of society generally.

"Power to control, to facilitate, and to diminish the costs of legal proceedings taken on behalf of charities.

Davey, Q. 3986.

"2. The jurisdiction exercised by the Charity Commission is, in some respects totally different to that exercised by any other Government Department.

Charitable Trusts Act, 1860, sect. 2.
Charitable Trusts Act, 1853, sect. 2.

"By the Charitable Trusts Act, 1860, sect. 2, the ancient and inherent jurisdiction of the Court of Chancery over charities was bodily transferred to the Charity Commission. All the considerations which govern a court of equity were imported into the duties of the Charity Commission, Parliament having previously provided that a special legal qualification should be necessary for two out of the three Commissioners.

Longley, 70. Welby, 3407. Fearon, 2081. Davey, 3955. Davey, 3956.

"3. In many respects the Charity Commission discharges the duties of the Court of Chancery. In addition to the construction of Acts of Parliament, a duty which falls upon every Government Department, the Charity Commission is to a special and exceptional extent charged with the construction and interpretation of wills and deeds, and the Charity Commission must guide itself by the light of the decisions of the Courts of Law, in all cases which appear to be in point or to form precedents for its decision. The Charity Commission is also called upon from time to time to construe schemes made either by itself, by the Court of Chancery, or by Parliament, and in the construction of such schemes to apply the strict rule of

Davey, 3955.

legal interpretation as laid down by the general law and practice of the Courts. Indeed, the same jurisdiction as is now exercised by the Court of Chancery in the case of charities having an income of over 50*l.* (where the assent of the trustees is not given to the Charity Commission to enable it to deal with the charity) is at the present moment exercised by the Charity Commission in the case of charities having an income of 50*l.* or less (or with the assent of the trustees where the income exceeds 50*l.*).

"4. By the Local Government Act, 1894, Parliament has assigned certain duties to the Charity Commission in respect of the appointment of trustees and other matters, and it may be presumed that such powers were so assigned upon the ground that the Charity Commission was a non-political, independent, and judicial body.

"5. Certain acts of the Charity Commission are made the subject of a direct appeal to the Chancery Division of the High Court, viz., orders for the appointment of trustees, orders for the establishment of schemes, and orders for the vesting of property made under the Charitable Trusts Acts. And by Section 70 of the Local Government Act, 1894, the powers conferred by that Act upon the Charity Commission are specially made the subject of an appeal to the High Court and to the Court of Appeal.

Fearon, 2678.

"6. The Charity Commission is largely engaged in doing acts and giving directions which could not eventually be enforced except by an order of the Board, but in which that stage is

Longley, 614. Davey, 3956.

never reached, and in these matters the Charity Commission is guided by the knowledge that the Courts of Law are always above and behind it. The greater portion of the law of Charitable Trusts, which is the law administered by the Charity Commission, depends upon successive decisions of the Court of Chancery rather than upon statutory enactment, hence the work of administering this law has become judicial in its character.

Charitable Trusts Act, 1853, Sect. 16. Davey, 3957.

"7. The Charity Commission is also empowered to give its opinion and advice to Trustees of Charities who seek it, and persons acting upon such opinion and advice are indemnified against any legal proceedings for breach of trust in consequence of such action. Such a power as this is of a judicial character and is precisely similar to that now exercised by the Chancery Division of the High Court in the case of private trustees.

Davey, 3971.

"In a word, the Charity Commission is to a very considerable extent a judicial body, bound to administer law and to act in accordance with law.

"8. Although some difference of opinion was expressed before your Committee as to the relative quantity of the judicial and of the administrative work of the Charity Commission, no evidence was tendered to your Committee directly in favour of subjecting the judicial, or semi-judicial work, of the Charity Commission to the direct control of Parliament either by means of a Standing Committee or by placing this portion of the work of the Department under the direct control of a Minister.

Welby, 3415–3417.

"9. With reference to the latter consideration, the evidence of Lord Welby went to show that in certain cases the impersonality of a Board was preferable as an organisation to the simpler and more prevalent form of organisation in Government Departments, viz., of a Minister and subordinate officials, and that the Charity Commission was such a case.

Longley, 493.

"10. Whilst it may be admitted that the work of the Charity Commission is to a considerable extent of an administrative nature, yet, in the opinion of your Committee, it partakes so largely of a legal and judicial character that the operations of the Charity Commission do not lend themselves to the direction and control of a Parliamentary head to the same degree as those of an ordinary Department of State, and it is difficult, therefore, to see what room there is for the control of a responsible Minister of the Crown over this, the larger, portion of its duties.

"11. With

"11. With reference to the suggestion that a Standing Committee of the House of Commons should be appointed to consider and report upon all the schemes of the Charity Commission, similar in the character of its composition and in the nature of its duties to the existing Standing Committee on Commons, your Committee are not able to make such a recommendation.

"12. The average annual number of schemes made by the Charity Commission during the last 10 years is 232. It would be impossible for a Committee to examine and consider so large a number of schemes with that degree of care and precision which this work of revision would necessitate, the long interval of the Parliamentary recess would gravely retard many of the schemes, and in certain cases possibly detrimentally affect the interests involved; and in view of the fact that there is a direct appeal to the Chancery Division of the High Court, the House of Commons might be brought into direct conflict with the courts of law. Appendix, No. 7.

"Your Committee was favoured with the evidence of Lord Justice Davey, in the course of which he spoke, as follows:—"The Charity Commissioners are a legal body, acting in accordance with law; they are bound to make their schemes in accordance with law; and as long as they are bound to do that it appears to me that the proper court of appeal is a court of law.

"13. The relative position of the fourth Parliamentary Charity Commissioner both towards his colleagues and towards Parliament has been considered by your Committee. The history of the original creation of the appointment, of its practical lapse, and of its revival in 1887, will be found fully set out in the Report of the Charity Commission of 1888. In the opinion of your Committee the experiment has so far worked well. The Parliamentary Commissioner acquires a sufficient knowledge of the current work of the Charity Commission to enable him to reply to questions, and to give explanations in the House of Commons should information be required, and it is, in the opinion of your Committee, desirable that the position of the fourth Parliamentary Commissioner should be retained for such purposes.

"14. (A. (II.) With regard to the powers of the Charity Commission conferred upon it by the Endowed Schools Act, 1869 to 1874, the course of procedure, speaking generally, is as follows:—A scheme for an educational charity, within the meaning of those Acts, is initiated and framed by the Charity Commission. When the scheme is framed it is submitted by the Charity Commission to the Education Department. If there is no objection on the part of the locality, or in any other quarter, to the scheme, or if, objections having been taken, the Education Department does not consider such objections to be valid, the President or Vice-President of the Committee of Council on Education formally approves the scheme, and in the event of no further opposition being made, the scheme receives the assent of Her Majesty in due course. If, however, the President or Vice-President does not approve the scheme, he can remit the scheme to the Charity Commission with such declaration as the nature of the case may require. It has been suggested that there is no power in the Minister to compel the Charity Commission to insert such amendment into the scheme, and that the Charity Commission can nullify the action of the Minister by declining to proceed further with the scheme. On the other hand, it might equally be in the power of the Education Department to delay the schemes of the Charity Commission by refusing to approve them unless they are framed in accordance with the views of the former Department. E. S. Act, 1869, Section 39. Acland.

"In the opinion of your Committee these are theoretical and not practical objections. No instance has been given in evidence of any such reluctance on the part of the Charity Commission to proceed with a scheme remitted to it under the Endowed Schools Acts, 1869 to 1874, or to make an amendment therein.

"15. In the event of opposition to the scheme continuing after the approval of the Education Department has been given, the matter can be brought before Parliament upon petition, or, if the objection be to the legality of the scheme, it can be raised by a petition to have the matter tried before the Judicial Committee of the Privy Council.

"16. Under the Welsh Intermediate Education Act, 1889, a difficulty seems to have arisen between the Education Department and the Charity Commission during the years 1893 and 1894 with regard to the scheme for the County of Flint. In this case the Vice-President of the Committee of Council on Education remitted the scheme to the Charity Commission with a declaration. The Charity Commission refused to amend the scheme in accordance with the declaration, basing their refusal on the ground that a short time previously Parliament had struck out of the scheme for the County of Merioneth a clause identically the same as that which the Vice-President had requested the Charity Commission to insert in the remitted scheme.

"But in this case the Vice-President had an alternative course open to him, viz., to remit to the Charity Commission the scheme of the Joint Education Committee for the County of Flint, which had under the Act been submitted by the Charity Commission as 'an alternative scheme.' This was the course adopted by the Vice-President of the Council; the scheme so remitted was amended by the Charity Commission and returned to the Education Department, when it was approved and put forward in the ordinary course.

"17. In the opinion of your Committee the general relations of the Charity Commissioners to the Education Department, and to Parliament, were clearly and concisely stated by Mr. Gladstone Mr. Gladstone. "Hansard," Vol. 220, p. 1702.

Gladstone in his speech on the Endowed Schools Act Amendment Bill, 1874, and are applicable to the present circumstances as they were to those of 20 years ago:—

"'Under the existing law there has been a well-divided and well-defined responsibility.

"'The business of the preparation of schemes has been committed by the deliberate judgment of Parliament to a body from which political influence, properly so called, and the influence of the Executive Government was entirely excluded.

"'These schemes were framed by an independent authority, and the schemes so framed were, at the proper stage, referred to the Department of the Government, which passed an independent judgment upon them. These schemes could not come before the House without the fiat and the sanction of the Executive Government.

"'But when they came before the House they came before it in such a way that the House understood perfectly well with what it was dealing, namely, the judgment of an independent body, and the affixed judgment of the Department of the Executive Government.'

"18. During the course of your Committee's investigation it was suggested that the time was not far distant when the whole administration of education, secondary as well as primary, would be under the control of one Minister. The consideration of this question being outside the limits of the order of reference to your Committee, your Committee did not embark upon an examination of the advantages of or the machinery necessary for carrying out such a policy.

"20. B. What more effectual means, if any, should be provided for the Charity Commission, to enable it properly to carry out the duties which Parliament has imposed upon it?

"21. Your Committee beg to recommend that the jurisdiction of the Charity Commission should be extended to charities having an annual income above 50*l*.

Charitable Trusts Act, 1860, Sect. 4.

"Under the existing law the powers of the Charity Commissioners cannot be exercised in the case of charities the gross annual income of which exceeds 50*l*., except upon the application of the trustees. No sufficient reason seems to exist for the retention of such a limit; its removal was recommended by a Committee of the House of Commons on the Charitable Trusts Acts, which reported on the 29th July 1884, and, in any event, the parties aggrieved by any decision of the Commissioners would have a right of appeal to the Chancery Division of the High Court of Justice.

Charitable Trusts Act, 1885, Sect 44.

"22. Under the existing law the trustees of charities are bound to make out an annual statement of the accounts of every charity, and to forward a copy of the same to the Charity Commission, and in the case of parochial charities deliver a copy to the Churchwardens, who shall present the same to the meeting of the Vestry.

"There is no doubt that in many cases the law in this respect has not been complied with. The staff of the Charity Commission is not large enough to supervise the punctual rendering of all charity accounts, although the powers of the Charity Commission are sufficient to compel their production when required. When the Local Government Act, 1894, comes into force, the attention of the trustees of charities will be more particularly directed to this matter, and it is to be hoped that more punctuality will be observed.

Fearon, 2116.

"23. Your Committee, however, would recommend that sufficient staff should be given to the Charity Commission to enable it to examine the accounts which are sent in. At the present time a considerable number of these accounts are not examined.

Fearon, 2115.

"24. Bearing in mind the power which the Charity Commission has to interrogate trustees, and to call for information, together with the further power to certify any suspicious case to the Attorney General, the proposed increased examination by the Charity Commission, and the more punctual production of accounts, due to the effect of the Local Government Act, 1894, will probably be found sufficient for the present to meet all legitimate demands.

Longley, 3908.

"25. Your Committee also desire to recommend that the Assistant Commissioners of the Charity Commission should be entitled to attend, without a right to vote, all meetings of trustees of charities. This provision was introduced into the Welsh Intermediate Education Act, and its successful working under that Act warrants the further extension of the principle."

Welsh Intermediate Education Act, 1889, Sect. 6.

Motion made, and Question proposed, That the Draft Report, proposed by the *Chairman*, be read a second time, paragraph by paragraph.

Amendment proposed, to leave out the words "the Chairman," and insert the words "Mr. James William Lowther"—(Mr. *James William Lowther*).

Question put, That the words "the Chairman" stand part of the Question.—The Committee divided:

Ayes, 7.	Noes, 6.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. Freeman-Mitford.
Mr. Howell.	Mr. James William Lowther.
Mr. H. L. W. Lawson.	Sir Stafford Northcote.
Mr. Oldroyd.	Sir Andrew Scoble.
Mr. George Russell.	Mr. Wickham.
Mr. Strachey.	

Main Question put, and *agreed to*.

[Adjourned till Friday next, at Two o'clock.

Friday, 13*th July* 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. Griffith-Boscawen.	Sir Andrew Scoble.
Mr. Howell.	Mr. George Russell.
Mr. Donald Crawford.	Mr. Wickham.
Mr. Strachey.	Sir Stafford Northcote.
Mr. Jesse Collings.	Mr. Oldroyd.
Mr. Egerton Allen.	Mr. H. Lawson.
Mr. James William Lowther.	Mr. Freeman-Mitford.

DRAFT REPORT proposed by the *Chairman*, read a second time, paragraph by paragraph.

Paragraph 1, *agreed to.*

Paragraphs 2—4, amended, and *agreed to.*

Paragraph 5, *agreed to.*

Paragraph 6.—An Amendment made.

Another Amendment proposed, in line 1, to leave out from the word "various" to the word "Commission," in line 2—(Sir *S. Northcote*).

Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided:

Ayes, 8.	Noes, 6.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Jesse Collings.	Mr. Freeman-Mitford.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. George Russell.	
Mr. Strachey.	

Another Amendment proposed, in line 2, to leave out from the word "on" to the word "necessary," in line 4—(Mr. *Collings*).

Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided:

Ayes, 7.	Noes, 7.
Mr. Egerton Allen.	Mr. Jesse Collings.
Mr. Griffith-Boscawen.	Mr. Donald Crawford.
Mr. Freeman-Mitford.	Mr. Howell.
Mr. James William Lowther.	Mr. H. L. W. Lawson.
Sir Stafford Northcote.	Mr. Oldroyd.
Sir Andrew Scoble.	Mr. George Russell.
Mr. Wickham.	Mr. Strachey.

Whereupon the Chairman declared himself with the Ayes.

Other Amendments made.

Another Amendment proposed, in line 11, to leave out the words "in this connection "too," and insert the words "with reference to educational schemes proposed by the "Charity Commissioners, and submitted for approval to the Education Department"—(Mr. *Collings*).

Question, That the words "In this connection too" stand part of the paragraph:—put, and *negatived.*

Question put, That those words be there inserted.—The Committee divided:

Ayes, 8.	Noes, 6.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Jesse Collings.	Mr. Freeman-Mitford.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. George Russell.	
Mr. Strachey.	

Another Amendment proposed, in line 12, to leave out from the word "too" to the word "responsibility" in line 15, and insert the words, "Some evidence was given of difficulties having arisen between the Education Department and the Charity Commission with regard to schemes under the Welsh Intermediate Education Act, 1894. But it appears on close examination that the difficulties complained of were confined to the case of the scheme for the County of Flint. In this case the Charity Commission refused to amend the scheme after it had been remitted to them with a declaration by the Vice-President. But they based their refusal solely on the fact that a short time before, Parliament had struck out from the scheme for the County of Merioneth a clause identical with the one which the Vice-President had requested them to insert in the remitted scheme. And in this case, the Vice-President had an alternative course before him, viz.: to remit to the Charity Commission the scheme of the Flint County Education Committee, which had under the Act been submitted by the Charity Commission as an alternative scheme. This course was adopted by the Vice-President, and the scheme so remitted was amended by the Charity Commission and returned to the Education Department when it was approved, and put forward in the ordinary course"—(Mr. *Griffith-Boscawen*).—Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided:

Ayes, 9.	Noes, 5.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Jesse Collings.	Mr. James William Lowther.
Mr. Donald Crawford.	Sir Stafford Northcote.
Mr. Freeman-Mitford.	Sir Andrew Scoble.
Mr. Howell.	Mr. Wickham.
Mr. H. L. W. Lawson.	
Mr. Oldroyd.	
Mr. George Russell.	
Mr. Strachey.	

Other Amendments made.

Another Amendment proposed, in line 25, after the word "work" to insert the words "of "the Charity Commission"—(Sir *Andrew Scoble*).

Question put, That those words be there inserted.—The Committee divided:

Ayes, 6.	Noes, 8.
Mr. Griffith-Boscawen.	Mr. Egerton Allen.
Mr. Freeman-Mitford.	Mr. Jesse Collings.
Mr. James William Lowther.	Mr. Donald Crawford.
Sir Stafford Northcote.	Mr. Howell.
Sir Andrew Scoble.	Mr. H. L. W. Lawson.
Mr. Wickham.	Mr. Oldroyd.
	Mr. George Russell.
	Mr. Strachey.

Paragraph 6, as amended, *agreed to.*

Paragraph 7.—Motion made, and Question proposed, "That paragraph 7 be postponed"—(Mr. *J. W. Lowther*).—Question put.—The Committee divided:

Ayes, 6.	Noes, 8.
Mr. Griffith-Boscawen.	Mr. Egerton Allen.
Mr. Freeman-Mitford.	Mr. Jesse Collings.
Mr. James William Lowther.	Mr. Donald Crawford.
Sir Stafford Northcote.	Mr. Howell.
Sir Andrew Scoble.	Mr. H. L. W. Lawson.
Mr. Wickham.	Mr. Oldroyd.
	Mr. George Russell.
	Mr. Strachey.

Amendment proposed, in line 1, to leave out the words "greater Parliamentary control," and insert the words "the business now entrusted to the Charity Commission should be "transferred to another authority"—(Mr. *George Russell*).

Question put, That the words "greater Parliamentary control," stand part of the paragraph.—The Committee divided:

Ayes, 7.	Noes, 7.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Jesse Collings.	Mr. Freeman-Mitford.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Mr. George Russell.
Mr. Oldroyd.	Sir Andrew Scoble.
Mr. Strachey.	Mr. Wickham.

Whereupon

Whereupon the *Chairman* declared himself with the Ayes.

Another Amendment proposed, in line 1, to leave out the word "precede," and insert the word "accompany"—(Mr. *Collings*).

Question put, That the word "precede" stand part of the paragraph.—The Committee divided :

Ayes, 3.	Noes, 10.
Mr. Donald Crawford.	Mr. Egerton Allen.
Mr. H. L. W. Lawson.	Mr. Griffith-Boscawen.
Mr. Oldroyd.	Mr. Jesse Collings.
	Mr. Freeman-Mitford.
	Mr. Howell.
	Mr. James William Lowther.
	Sir Stafford Northcote.
	Sir Andrew Scoble.
	Mr. Strachey.
	Mr. Wickham.

Question, That the word "accompany" be there inserted,—put, and *agreed to.*

Another Amendment proposed, in line 7, to leave out from the word "Bills" to the word "Treasury," in line 8—(Mr. *Collings*).

Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided :

Ayes, 6.	Noes, 7.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. Jesse Collings.
Mr. Howell.	Mr. Freeman-Mitford.
Mr. H. L. W. Lawson.	Mr. James William Lowther.
Mr. George Russell.	Sir Stafford Northcote.
Mr. Strachey.	Sir Andrew Scoble.
	Mr. Wickham.

Another Amendment proposed, after the word "years" at the end of the paragraph, to add the words "on the other hand, it must be remembered that Parliament has always looked upon the Charity Commission as a non-political body, free from the possibility of being subjected to political pressure. For this reason, by the Local Government Act of 1894, Parliament assigned to it certain important duties which could only be properly performed by a thoroughly impartial body ; *e.g.*, the determination in certain cases of what charities are to be held to be ecclesiastical charities, and what are to be held to be secular charities ; and your Committee consider that any proposal which would tend to weaken the impartial character of the Commission in the performance of these duties would be most detrimental to the public interest"—(Mr. *Griffith-Boscawen*).

Question put, That those words be there added.—The Committee divided :

Ayes, 6.	Noes, 8.
Mr. Griffith-Boscawen.	Mr. Egerton Allen.
Mr. Freeman-Mitford.	Mr. Jesse Collings.
Mr. James William Lowther.	Mr. Donald Crawford.
Sir Stafford Northcote.	Mr. Howell.
Sir Andrew Scoble.	Mr. H. L. W. Lawson.
Mr. Wickham.	Mr. Oldroyd.
	Mr. George Russell.
	Mr. Strachey.

Question put, That paragraph 7, as amended, stand part of the Report.—The Committee divided :

Ayes, 6.	Noes, 8.
Mr. Jesse Collings.	Mr. Egerton Allen.
Mr. Donald Crawford.	Mr. Griffith-Boscawen.
Mr. Howell.	Mr. Freeman-Mitford.
Mr. H. L. W. Lawson.	Mr. James William Lowther.
Mr. Oldroyd.	Sir Stafford Northcote.
Mr. Strachey.	Mr. George Russell.
	Sir Andrew Scoble.
	Mr. Wickham.

[Adjourned till Monday next, at Three o'clock.

Monday, 16th July 1894.

MEMBERS PRESENT:

Mr. JOHN ELLIS in the Chair.

Mr. Strachey.	Mr. H. L. W. Lawson.
Mr. James William Lowther.	Mr. Donald Crawford.
Mr. Wickham.	Mr. Egerton Allen.
Mr. Freeman-Mitford.	Mr. Griffith-Boscawen.
Sir Stafford Northcote.	Mr. Oldroyd.
Sir Andrew Scoble.	Mr. Howell.
Mr. George Russell.	

Paragraph 8.—Amendment proposed, in line 1, to leave out from the words "are persuaded" to the word "desire," in line 3—(Sir *Stafford Northcote*).

Question put, That the words "are persuaded that" stand part of the paragraph.—The Committee divided:

Ayes, 5.	Noes, 4.
Mr. Egerton Allen.	Mr. James William Lowther.
Mr. H. L. W. Lawson.	Sir Stafford Northcote.
Mr. Oldroyd.	Sir Andrew Scoble.
Mr. George Russell.	Mr. Wickham.
Mr. Strachey.	

Another Amendment proposed, in line 1, to leave out the words "this state of things," and insert the following words: "any unpopularity which may attach to the Charity Commission in the minds of the public and Parliament, with the consequent increasing criticism to which it is subjected in both quarters—(The *Chairman*).

Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided:

Ayes, 5.	Noes, 7.
Mr. Griffith-Boscawen.	Mr. Egerton Allen.
Mr. Freeman-Mitford.	Mr. Donald Crawford.
Mr. James William Lowther.	Mr. H. L. W. Lawson.
Sir Stafford Northcote.	Mr. Oldroyd.
Mr. Wickham.	Mr. George Russell.
	Sir Andrew Scoble.
	Mr. Strachey.

Question, That the proposed words be there inserted,—put, and *agreed to.*

Other Amendments made.

Paragraph 8, as amended, *agreed to.*

Paragraph 9.—Amendment proposed, at the end of the paragraph, after the word "failure," to add the following words: "On the other hand, the value of the non-political and independent character of the Charity Commission was recognised in certain contingencies by Mr. Gladstone, who, in a speech on the Endowed Schools Act Amendment Bill, 1874, is reported to have spoken as follows:—

"Under the existing law there has been a well-divided and well-defined responsibility.

"The business of the preparation of schemes has been committed by the deliberate judgment of Parliament to a body from which political influence, properly so called, and the influence of the Executive Government was entirely excluded.

"These schemes were framed by an independent authority, and the schemes so framed were, at the proper stage, referred to the Department of the Government, which passed an independent judgment upon them. These schemes could not come before the House without the fiat and the sanction of the Executive Government.

"But when they came before the House they came before it in such a way that the House understood perfectly well with what it was dealing, namely, the judgment of an independent body, and the affixed judgment of the Department of the Executive Government"—(Mr. *James William Lowther*).

Question proposed, That those words be there added.—Amendment, by leave, *withdrawn.*

An Amendment made.

Paragraph 9, as amended, *agreed to.*

Paragraph

Paragraph 10.

Amendment proposed, in line 9, to leave out from the words "It was communicated," to the end of the paragraph, and insert the following words "Your Committee are, however, of opinion that the increased work which has devolved upon the Commission as the result of legislation since 1887, together with the necessity for a continuity in the educational work of the Board, have hitherto rendered it impossible to carry out the views expressed at that time by the First Lord of the Treasury"—(Sir *Stafford Northcote*).

Question put, That the words "It was communicated officially to the Charity Commission," stand part of the paragraph.—The Committee divided :

Ayes, 6.	Noes, 6.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. Freeman-Mitford.
Mr. H. L. W. Lawson.	Mr. James William Lowther.
Mr. Oldroyd.	Sir Stafford Northcote.
Mr. George Russell.	Sir Andrew Scoble.
Mr. Strachey.	Mr. Wickham.

Whereupon the *Chairman* declared himself with the Ayes.

Another Amendment proposed, in line 9, to leave out the words "but does not seem to have led to any effective action on their part in the direction desired"—(Mr. *James William Lowther*).

Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided :

Ayes, 6.	Noes, 6.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. Freeman-Mitford.
Mr. H. L. W. Lawson.	Mr. James William Lowther.
Mr. Oldroyd.	Sir Stafford Northcote.
Mr. George Russell.	Sir Andrew Scoble.
Mr. Strachey.	Mr. Wickham.

Whereupon the *Chairman* declared himself with the Ayes.

Amendments made.

Paragraph 10, as amended, *agreed to*.

Paragraph 11.—Amendment proposed, in line 11, to leave out from the word "Sir" to the end of the paragraph, and add the words, "Your Committee believe that the true solution lies in this direction. In so far as the Charitable Trusts side is concerned, the Charity Commissioners should retain their existing powers; they should also be responsible for the judicial and legal work involved in the administration of the Endowed Schools Acts. But your Committee believe that the purely educational work might, with advantage, be handed over to the Minister of Education, who, subject to the control of the Charity Commission on points of law, should be responsible for the initiation and preparation of all educational schemes" —(Mr. *Griffith-Boscawen*).

Question put, That the words "Sir Henry Longley was careful to point out more than once that his proposal was made as from an individual and not in any way in a representative . . . . capacity," stand part of the paragraph.—The Committee divided :

Ayes, 7.	Noes, 5.
Mr. Egerton Allen.	Mr. Freeman-Mitford.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. George Russell.	
Mr. Strachey.	

Another Amendment proposed, in line 13, to leave out the words "think that," and insert the words "know whether"—(Mr. *James William Lowther*).

Question put, That the words "think that" stand part of the paragraph.—The Committee divided :

Ayes, 7.	Noes, 5.
Mr. Egerton Allen.	Mr. Freeman-Mitford.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. George Russell.	
Mr. Strachey.	

Another Amendment proposed, in line 15, to leave out from the words "They are satisfied" to the word "Act" in line 40.—(Mr. *James William Lowther*).

Question put, That the words "They are satisfied" stand part of the paragraph.—The Committee divided:

Ayes, 7.	Noes, 6.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. Freeman-Mitford.
Mr. Howell.	Mr. James William Lowther.
Mr. H. L. W. Lawson.	Sir Stafford Northcote.
Mr. Oldroyd.	Sir Andrew Scoble.
Mr. George Russell.	Mr. Wickham.
Mr. Strachey.	

Another Amendment proposed, in line 15, to leave out the word "it," and insert the words "an attempt to draw a line between charities educational and non-educational"—(Mr. *James William Lowther*).

Question put, That the word "it" stand part of the paragraph.—The Committee divided:

Ayes, 7.	Noes, 6.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. Freeman-Mitford.
Mr. Howell.	Mr. James William Lowther.
Mr. H. L. W. Lawson.	Sir Stafford Northcote.
Mr. Oldroyd.	Sir Andrew Scoble.
Mr. George Russell.	Mr. Wickham.
Mr. Strachey.	

Another Amendment proposed, in line 18, to leave out from the words "your Committee" to the word "Act" in line 23, and insert the following words: "Your Committee are of opinion that if any change in the Parliamentary position of the Charity Commission is to be made, one single Minister should be responsible to Parliament both for Charitable Trusts and for the work under the Endowed Schools Act, and your Committee agree that a Minister, or Ministers, should be responsible to Parliament for the whole work of the Commission, provided always that necessary safeguards are secured for the rights, benefits, and privileges of the poorer classes in the trusts and endowments dealt with by the Charity Commission"—(Mr. *Oldroyd*).

Question, That the words proposed to be left out stand part of the paragraph,—put, and *negatived*.

Question put, That the proposed words be there inserted.—The Committee divided:

Ayes, 7.	Noes, 6.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. Freeman-Mitford.
Mr. Howell.	Mr. James William Lowther.
Mr. H. L. W. Lawson.	Sir Stafford Northcote.
Mr. Oldroyd.	Sir Andrew Scoble.
Mr. George Russell.	Mr. Wickham.
Mr. Strachey.	

Amendment proposed, at the end of the last Amendment, to add the words "and to carrying out as far as possible the intention, of the founders of the charity"—(Mr. *Boscawen*).

Question put, That those words be there added.—The Committee divided:

Ayes, 5.	Noes, 7.
Mr. Griffith-Boscawen.	Mr. Egerton Allen.
Mr. James William Lowther.	Mr. Donald Crawford.
Sir Stafford Northcote.	Mr. Howell.
Sir Andrew Scoble.	Mr. H. L. W. Lawson.
Mr. Wickham.	Mr. Oldroyd.
	Mr. George Russell.
	Mr. Strachey.

Question put, That paragraph 11, as amended, stand part of the Report.

Ayes, 7.	Noes, 5.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. George Russell.	
Mr. Strachey.	

Paragraph

Paragraph 12.—Question put, That the paragraph stand part of the Report.—Committee divided :

Ayes, 7.	Noes, 5.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. George Russell.	
Mr. Strachey.	

Paragraph 13.—Amendment proposed, in line 2, to leave out from the words "and they therefore arrive" to the end of the paragraph, and add the following words: "but your Committee cannot recommend the transference of the judicial powers of the Commission to a political department"—(Mr. *James William Lowther*).

Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided :

Ayes, 7.	Noes, 5.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. George Russell.	
Mr. Strachey.	

An Amendment made.

Question put, That paragraph 13, as amended, stand part of the Report.—The Committee divided :

Ayes, 7.	Noes, 5.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. George Russell.	
Mr. Strachey.	

Paragraph 14.—Amendment proposed, in line 3, after the word "difficulty," to insert the words, "In many respects the Charity Commission discharges the duties of the Court of Chancery. In addition to the construction of Acts of Parliament, a duty which falls upon every Government Department, the Charity Commission is to a special and exceptional extent charged with the construction and interpretation of wills and deeds, and the Charity Commission must guide itself by the light of the decisions of the Courts of Law, in all cases which appear to be in point or to form precedents for its decision. The Charity Commission is also called upon from time to time to construe schemes made either by itself, by the Court of Chancery, or by Parliament, and in the construction of such schemes to apply tha strict rule of legal interpretation as laid down by the general law and practice of the Courts. Indeed, the same jurisdiction as is now exercised by the Court of Chancery in the case of charities having an income of over 50*l.* (where the assent of the trustees is not given to the Charity Commission to enable it to deal with the charity) is at the present moment exercised by the Charity Commission in the case of charities having an income of 50*l.* or less (or with the assent of the trustees where the income exceeds 50*l.*).

Longley, 70. Welby, 3407. Fearon, 2081. Davey, 3955. Davey, 3956

Davey, 3955.

"By the Local Government Act, 1894, Parliament has assigned certain duties to the Charity Commission in respect of the appointment of trustees and other matters, and it may be presumed that such powers were so assigned upon the ground that the Charity Commission was a non-political, independent, and judicial body.

"Certain acts of the Charity Commission are made the subject of a direct appeal to the Chancery Division of the High Court, viz., orders for the appointment of trustees, orders for the establishment of schemes, and orders for the vesting of property made under the Charitable Trusts Acts. And by Section 70 of the Local Government Act, 1894, the powers conferred by that Act upon the Charity Commission are specially made the subject of an appeal to the High Court and to the Court of Appeal.

"The Charity Commission is largely engaged in doing acts and giving directions which could not eventually be enforced except by an order of the Board, but in which that stage is never reached, and in these matters the Charity Commission is guided by the knowledge that

Fearon, 2678.

Longley, 614. Davey, 3956. that the Courts of Law are always above and behind it. The greater portion of the law of Charitable Trusts, which is the law administered by the Charity Commission, depends upon successive decisions of the Court of Chancery rather than upon statutory enactment, hence the work of administering this law has become judicial in its character.

Charitable Trusts Act, 1853, Sect. 16. Davey, 3957. "The Charity Commission is also empowered to give its opinion and advice to Trustees of Charities who seek it, and persons acting upon such opinion and advice are indemnified against any legal proceedings for breach of trust in consequence of such action. Such a power as this is of a judicial character and is precisely similar to that now exercised by the Chancery Division of the High Court in the case of private trustees.

Davey, 3971. "In a word, the Charity Commission is to a very considerable extent a judicial body bound to administer law and to act in accordance with law"—(Mr. *James William Lowther*).

Question put, That those words be there inserted.—The Committee divided:

Ayes, 5.	Noes, 7.
Mr. Griffith-Boscawen.	Mr. Egerton Allen.
Mr. James William Lowther.	Mr. Donald Crawford.
Sir Stafford Northcote.	Mr. Howell.
Sir Andrew Scoble.	Mr. H. L. W. Lawson.
Mr. Wickham.	Mr. Oldroyd.
	Mr. George Russell.
	Mr. Strachey.

Question put, That paragraph 14 stand part of the Report.—The Committee divided:

Ayes, 7.	Noes, 5.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford	Mr. James William Lowther.
Mr. Howell.	Sir Stafford Northcote.
Mr. H. L. W. Lawson.	Sir Andrew Scoble.
Mr. Oldroyd.	Mr. Wickham.
Mr. George Russell.	
Mr. Strachey.	

Paragraph 15, *disagreed to.*

Paragraph 16, amended, and *agreed to.*

Amendment proposed, That the following new paragraph be inserted in the Report:

"Your Committee recommend a control by County Council and Town Councils over trustees who administer schemes under the Charitable Trusts Acts"—(Mr. *Strachey*).

Question put, That the proposed new paragraph be inserted in the Report.—The Committee divided:

Ayes, 2.	Noes, 9.
Mr. George Russell.	Mr. Egerton Allen.
Mr. Strachey.	Mr. Griffith-Boscawen.
	Mr. Donald Crawford.
	Mr. H. L W. Lawson.
	Mr. James William Lowther.
	Sir Stafford Northcote.
	Mr. Oldroyd.
	Sir Andrew Scoble.
	Mr. Wickham.

Amendment proposed, That the following new paragraph be inserted in the Report:

"In the Reports of the Charity Commissioners, 1889–90, constant reference is made to the new conditions of their work, due to the creation of elective and responsible local authorities in the counties of England and Wales, under the Local Government Act, 1888. The measure of this year, calling District and Parish Councils into existence, increases the force and scope of this change. In their 38th Report the Charity Commissioners say, 'We have readily availed ourselves of the opportunity at length afforded by the creation of representative authorities for the country at large to secure that measure of local support in our dealings with individual endowments, for which we have long hoped,' by forwarding draft schemes for the regulation of local charities within their areas to the county councils, as, since 1884, had been done in the case of municipal corporations. Your Committee think that this practice should be followed in all cases, and that all draft schemes should be submitted to these bodies for comment and advice, and that any recommendations made by these authorities should be carefully weighed and considered in amending the schemes"—(Mr. *Lawson*).

Question, That proposed new paragraph be inserted in the Report—put, and *agreed to.*

Question

Question put, That this Report, as amended, be the Report of the Committee to the House.—The Committee divided :

Ayes, 6.	Noes, 5.
Mr. Egerton Allen.	Mr. Griffith-Boscawen.
Mr. Donald Crawford.	Mr. James William Lowther.
Mr. H. L. W. Lawson.	Sir Stafford Northcote.
Mr. Oldroyd.	Sir Andrew Scoble.
Mr. George Russell.	Mr. Wickham.
Mr. Strachey.	

Ordered, To Report, together with the Minutes of Evidence, and an Appendix.

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MINUTES OF EVIDENCE.

Friday, 20th April 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith Boscawen.
Mr. Jesse Collings.
Mr. Donald Crawford.
Mr. John E. Ellis.
Mr. Howell.
Mr. H. L. W. Lawson.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

Sir HENRY LONGLEY, K.C.B., called in; and Examined.

Chairman.

1. I NEED hardly ask, you are the Chief Charity Commissioner?—I am.

2. Perhaps you will kindly give us the date at which you came to that body, and your experience since?—I was first appointed to the Charity Commission in August 1874 as Third Commissioner; in 1878 I became Second Commissioner; and in 1885 Chief Commissioner.

3. The previous Chief Commissioner I think was Sir Seymour FitzGerald?—He was.

4. In order to get it on the Notes I may ask you this question: you are aware that this is a Select Committee "appointed to inquire whether it is desirable to take measures to bring the action of the Charity Commission more directly under the control of Parliament, and to give it more effectual means of dealing with the business which will come before it"?—Yes; I have the Order of reference before me.

5. Will you kindly give us some idea as to the origin of the Charity Commission?—I have a Paper here, which is an Extract from our 29th Report (for 1881) which states the origin of the Charity Commission pretty fully. I have copies here if honourable Members wish to have them. (*The Paper was handed in.*)

6. Will you kindly read what I take to be the operative parts, paragraphs 15 to 20, or such other as you desire?—The passages of this Memorandum which are material to your question are those numbered 1 to 20, but I think it would not be desirable to go at length into them now.

7. I have looked through the Memorandum, and I think you might begin with paragraph 15?—The 15th paragraph of the Memorandum states the particulars of two Commissions of Inquiry and one Select Committee of this House, into the administration of Charities. But perhaps I might, just before mentioning those, say that from the earliest time the State has exercised control over the administration of Charitable Trusts, mainly through the Courts of Equity. By the beginning of the present century (if I may just go back to paragraph 12 for a moment) "it became notorious that the protection which this system was intended to afford had not been secured by it"; and in consequence of widespread dissatisfaction with that state of things, the three Inquiries mentioned in paragraph 15 were held. I think they are sufficiently stated there. The most important, probably, of those, was a Select Committee of this House which sat in 1835, and the Recommendations of that Committee are stated in an Appendix to this Memorandum, at page 6. The list given of that Committee shows what a strong one it was, embracing the leaders of both political parties, and the Report of that Committee may be said, I think, to be really the origin of the Charity Commission; and the way in which it came to be the origin of the Charity Commission, is, I think, shown in those Recommendations.

Chairman—continued.

8. Before we pass to the objects of the Charity Commission, will you just state in a sentence the Acts that have been past on both sides, Charitable Trusts, and Endowed Schools?—The Act by which the Charity Commission was constituted

Chairman—continued.

is the Charitable Trusts Act of 1853, the 16th & 17th Vict. c. 137. That Act was amended in many material particulars by the Charitable Trusts Act of 1855, the 18th & 19th Vict. c. 124. Then comes the Charitable Trusts Act of 1860, which materially extended the jurisdiction of the Commission, by giving them for the first time the power to make Schemes. That Act is the 23rd & 24th Vict. c. 136. And that Act, again, was amended by the Charitable Trusts Act, 1869, 32 & 33 Vict. c. 110. That concludes the series of principal Charitable Trusts Acts; but in recent times there have been two Acts passed for special purposes, the Charitable Trusts Act, 1887, 50 & 51 Vict. c. 49, and the Charitable Trusts (Recovery) Act, 1891, 54 Vict. c. 17. Those six Acts are the whole of the Acts which confer permanent powers upon the Charity Commission as originally constituted. Then, I think, you asked me as to the Endowed Schools Acts?

9. Just to give the Acts, I mean?—The first Endowed Schools Act was based, as the Preamble states, upon the Report of the Commission, generally known as the Schools Inquiry Commission, which reported in the year 1867, the main Act in the Endowed Schools Act of 1869, the 32nd & 33nd Vict. c. 56. That Act was amended in the year 1873 as a result of the Report of a Select Commission of this House which sat in that year; by the Endowed Schools Act, 1873, 36 & 37 Vict. c. 87. And the last of the series of main Endowed Schools Act is the Endowed Schools Act, 1874, the 37th & 38th Vict. c. 87, by which the powers conferred by the Act of 1869 on the Endowed Schools Commissioners constituted by that Act were transferred to the Charity Commissioners. There is one more Act, passed in the year 1889, called the Welsh Intermediate Education Act, 1889, the 52nd & 53rd Vict. c. 40, which is by the first section to be read together with the previous Endowed Schools Acts, but the provisions of which are confined to the Principality of Wales, and the county of Monmouth.

10. Does that complete the Acts of Parliament from which the Charity Commission derives its powers?—It does.

11. Did the Local Government Act of 1888 affect you directly by name?—I think not.

12. But the Act of 1894, of course, does?—It does largely.

13. Then we might add the Act of 1894 to some extent to the other Acts which you have named?—Yes; by the Act of 1894 certain powers are conferred upon the Charity Commissioners.

14. We have now got the catalogue of the Acts of Parliament affecting the Charity Commission?—Yes.

15. We have got also the origin of the Charity Commission. With regard to the objects, can you give us any brief synopsis of those?—If I may refer to paragraph 18 of that same Memorandum, I do not think I could do better than refer you to that.

16. You may read it if you please?—The powers of the Charity Commissioners are summarised there. (*a*) "To inquire into the Administration of Charities"; (*b*) "To compel the production of, and when produced, to audit the accounts of the expenditure of Charity Funds." I am reading now the synopsis of the recommendations of the Reports.

17. Of the Report of the Committee of 1835?—Of the Report of the Committee of 1835, and those other Reports mentioned in the Memorandum. When I got to the word "audit" I was reminded that that is the only one of these powers not conferred on the Charity Commission. With that exception, these indicate the powers of the Charity Commission. (*c*) "To facilitate the administration of charities, both as to the development of property, and as to the direct execution of the trusts by supplementing the powers of trustees when defective." (*d*) "To secure the safe custody and due investment of the property of charities." (*e*) "To give ready and effectual expression to the doctrine of *cy-près* as administered by Courts of Equity by framing schemes for adapting the administration of charities to the altered circumstances, whether of the charity property, of the locality, or of society generally." And, (*f*) "To control, to facilitate, and to diminish the cost of legal proceedings taken on behalf of charities."

18. Now I will take you, *seriatim*, through those heads (*a*), (*b*), (*c*), (*d*), (*e*), and (*f*), and ask you if you wish to make any observations on them. Take the first head (*a*)?—Perhaps I might refer to my evidence given in 1884.

19. You gave evidence very fully then on that point; you need not go over the old ground; but if anything occurs to you from your experience since, perhaps you will state it?—The first head (*a*) is the power of inquiry into the administration of charities. I think there is nothing to be said upon that. Those powers have been quite ample, and I believe I may say (as I said to the Committee in 1884) that we have never yet failed to obtain information which we desired.

20. As to (*b*), the next head, what have you to say?—Omitting the word "audit," as to which no powers have been conferred upon us, (*b*) reads "To compel the production of the accounts of the expenditure of charity funds"; and the remark I made about (*a*) applies to that, that we have always been able to secure accounts when required; so that our powers, I think, are sufficient in that respect. They are very summary powers; powers enforced by a motion to commit for contempt of court if information is not rendered. Then the third head, (*c*), is amplified in the paragraph No. 27 of the Memorandum.

Mr. *Jesse Collings.*

21. You are omitting paragraph 23?—I think 23 is merely a general summary of our powers under two heads. I shall be quite ready to go into that if it is wished. As to (*c*), paragraph 27 of the Memorandum, runs thus: "The power of supplementing the action of Trustees is directed to (1) Dealings with the *corpus* of real, or the capital of personal estate. (2) The authorization of acts of the trustees in the administration of income, for which the terms of their trust afford no warrant; (3) The appointment and removal of trustees and officers." That

Mr. *Jesse Collings*—continued.

That head comprises a very large part of our work; because sales and leases and mortgages and our dealings with the *corpus* of real estate and the expenditure of capital, either in the purchase of land or in improvements, fall under those powers and require to be authorised by us. The *rationale*, perhaps one may say, of that section of our powers is this—that trustees of charities as a rule have no power to deal with capital; their functions are confined to administering the income. That distinction is more fully insisted on in paragraphs 29 to 34 of the Memorandum. And with regard to the second head under paragraph 27, "the authorisation of Acts of the Trustees in the administration of income for which the terms of their Trust afford no warrant," that is of the same nature as the dealings I have just referred to.

Chairman.

22. You are dealing now with Sub-Head (*b*) of paragraph 18?—Sub-Head (2) in paragraph 27.

23. If you will turn back to paragraph 18, we had better take these *seriatim*?—Yes.

24. Now will you go to (*d*)?—(*d*) is, "To secure the safe custody and due investment of the property of charities." That again is dealt with in paragraph 27 at large, and there it is explained that the means of exercising that power are, the constitution of official trustees; powers of vesting real and personal estate without conveyance (which practically means cutting a great many legal knots); and thirdly, provisions for the custody of deeds and muniments of charities. Then in the head (*e*), of paragraph 18, we come, of course, to the important duty of making schemes, and there the Acts themselves do not afford any very clear guide as to our powers; because these powers are conferred by reference to the general law administered by the Court of Chancery in dealing with Charity matters; the second Section of the Charitable Trusts Act, 1860, says that the Board of Charity Commissioners subject to the restrictions and rights of appeal there provided shall have power from time to time upon certain applications "to make such effectual orders as may now be made by any Judge of the Court of Chancery sitting at Chambers, or by any County Court" for certain purposes there mentioned. Those few words import into our duties all the considerations which govern a Court of Equity in dealing with the specified matters; and that it is which makes the Charitable Trusts Acts such an imperfect guide to our powers. They practically refer the inquirer, on this head at any rate, to the legal text-books."

25. This Sub-Head refers to the doctrine of *cy-près* which we all know is a very fruitful source of discussion in the administration of charities; can you refer us to the evidence in either 1884 or 1886 where that was dealt with very fully?—Yes. I think the Index of that Report has a heading *cy-près*, and I can easily refer to my own evidence at any rate; the answers to Questions 14 to 18, 75 to 78, and 154 to 157 in the Report of 1884. This matter would not come before the Committee of 1886. Then,

Chairman—continued.

again, the answers to Questions 305 to 313, and 1257 to 1259. And then there is important evidence given by Mr. Vaughan Hawkins, of the Equity Bar, who is a well-known authority on the doctrine of *cy-près*, in his answers to Questions 1446 to 1488. But, perhaps, the best modern exposition of the doctrine of *cy-près* is to be found in a judgment (which was frequently referred to in that evidence), given by the late Master of the Rolls, Sir George Jessel, and Lord Justice James in the case of the Campden Charities, at Kensington, which will be found in the 18th Volume of the Law Reports, Chancery Division. That is the most recent and most authoritative exposition of the doctrine.

26. Have you anything further to add on that Sub-Head (*e*)?—No, except that the doctrine of *cy-près*, as administered by the Court, and as we administer it in imitation of the practice of the Court, is a somewhat elastic doctrine, depending, of course, on the circumstances of charities; and the decisions of Courts of Equity have covered very wide ground.

27. Will you pass now to (*f*) which is: "To control, to facilitate, and to diminish the cost of legal proceedings taken on behalf of charities?"—As to (*f*), there, I think, the powers conferred upon us are sufficient for us. The 17th Section of the Act of 1853 prohibits the initiation of any proceedings on behalf of a charity without our sanction. The great mischief which existed before the passing of this Act was the power which individuals had of bringing a charity before the Court, and sometimes of nearly extinguishing the charity by means of the costs of the proceeding; and this section to which I refer requires that where any relief, order, or direction is required for the purpose of the charity, our sanction, or that of the Attorney General, should be required. The operation of that section has been somewhat narrowed within the last 10 or 12 years by decisions of the Courts; but, I think, that, practically, it still operates to prevent the mischief which it was intended to prevent.

28. Does the limit of 50*l.* come in there?—It does not come in there; it comes in in the 4th Section of the Act of 1860. I have referred already to the 2nd Section of the Act of 1860 as giving us powers to make schemes and to make certain other orders; and then the Act, having given us power to make schemes and the other orders of the other classes on the application of the Attorney General, "or any one or more of the trustees or persons administering or claiming to administer, or interested in, the charity, which shall be the subject of such application, or any two or more inhabitants of any parish or place within which the charity is administered or applicable, having given us power to do that, then by the 4th Section, the Act of 1860 curtails that power in this way: "The Board shall not make any order, under the jurisdiction vested in them by this Act, with respect to any charity of which the gross annual income, exclusive of the yearly value of any buildings or land used wholly for the purposes thereof, and not yielding any pecuniary income, shall amount to fifty pounds or upwards, except upon the application of the

Chairman—continued.

trustees or persons acting in the administration of the charity, or a majority of them." That provision has the curious effect, whether it was designed or not, of excluding the Attorney General from making an application in charities over 50*l.*

29. Do you wish to add anything further on (*f*)?—No, except that I perhaps might say that my evidence in 1884 goes very fully through all these six heads. Perhaps it might be convenient if I just gave the numbers.

30. If you please?—Referring to these heads at paragraph 18 of the Memorandum, Sub-Head (*a*), is dealt with, that in the evidence of 1884 in answer to Questions 20 to 21; (*b*) is dealt with in the Answers 22 to 29; (*c*) is dealt with in the Answer to Question No. 30; (*d*) is dealt with in the Answer to Questions 31 to 69; (*e*) is dealt with in the Answers to Questions 70 to 221 (that is the *cy-près* doctrine); and (*f*) is dealt with in the Answers to Questions 222 to 251.

31. Do you wish to make any further comment on this Memorandum. The honourable Member for the Bordesley Division alluded to paragraph 23?—Yes; I think paragraph 23, perhaps sums up more concisely than is done elsewhere the powers vested in the Charity Commission.

32. Will you kindly read it?—"The powers thus vested in the Charity Commissioners are essentially remedial and protective. They are designed to effect two objects, and two objects only (*a*) To supplement the means provided by founders for giving effect to their intentions, where those means are inadequate to give full effect to the purpose of the foundations. (*b*) To protect the property of charities against waste and loss, and so to preserve it for the purposes to which it has been dedicated by the founders." I may just add perhaps that these observations on this Memorandum have of course no bearing upon the Endowed Schools Acts.

33. Quite so. Have you any observation to make in reference to the note at the bottom of page 3, to Sub-Head (*b*) of paragraph 23. There is a note: "As to this point, *see* now the Charitable Trusts (Recovery) Act, 1891"?—Yes. I should only wish to say that the Charitable Trusts (Recovery) Act of 1891, still further enables us to carry out the second head of those powers mentioned in paragraph 23 to protect the property of charities.

Mr. *Jesse Collings.*

34. When you say that the observations you have made do not refer to the Endowed Schools Acts, they do refer, of course, to Section 30 of the Charitable Trusts Acts?—I think the Section 30 to which the honourable Member refers is the Section 30 of the Endowed Schools Act of 1869, which enables the Commissioners to devote to education the charities there named. That is not in the Charitable Trusts Act.

35. But your observations would apply to that? No, by no means; that is an express Parliamentary power far beyond the doctrine of *cy-près.*

Chairman.

36. Are there any other observations you desire to make on this Memorandum, passing from paragraph 23. You have already dealt with 27?—As you have referred to the Charitable Trusts (Recovery) Act, there is an explanation of that which the Committee will find in our 34th Report, pages 11 and 12, and the working of the Act is described in our 39th Report, paragraphs 23 and 24, and in our 41st Report, which has been issued in the last two or three days, paragraph 23.

37. Is that the Report for last year?—It is the Report for last year, issued this year.

Mr. *Howell.*

38. I should like to ask you this on another question previously put. Could you not give us a brief summary, bringing in the reference you have now made to the Act of 1891, so as to have it either in a memorandum following this Memorandum of 1884, or in your evidence?—I think I had better put in an extract from the Report; it is not very long, and it states the Act section by section. It is not a very long Act; I can tell the honourable Member at once what it comes to. There is a page and a quarter relating to it in the 34th Report, and about another page and a half in the 39th. Shall I have them extracted and put in?

Chairman.

39. I think we want the whole subject focussing in one Paper. You had better leave that for the moment?—Very well.

40. Have you any further observations to make on any paragraphs in the Memorandum?—I should wish to draw the attention of the Committee to the third note on page 5, which explains the constitution of the Official Trustees, as to which there has often been a good deal of misconception.

41. Will you read it?—It is a long note on page 5; perhaps I ought not to trouble you by reading it now.

42. You draw attention to it?—I should wish to draw your attention to it; I think it states the story of the Official Trustees. And then I should also like to draw the attention of the Committee, although they have not at present approached the subject, to the note on page 6, as to the general functions and constitution of the Charity Commission, an extract from Mr. Lowe's evidence before the Schools Inquiry Commission, in which he deals to a certain extent with our contact with Parliament. But perhaps that is rather premature.

43. No; you refer us to that?—I should wish to refer to that.

44. That is all you desire to say on this Memorandum?—That is so.

45. Which you wish to put in?—Yes; it is already put in, and will be in your Appendix.

46. Passing from the objects, in speaking of the objects, you have dealt upon the powers of the Charity Commissioners; have you anything to add on that?—I think the best synopsis that I can give of the powers is to be found in that first Appendix to the Report of the Committee of 1884. I should

Chairman—continued.

should wish to refer to that as giving the powers in greater detail. That is the paper which the Committee have before them just now.

47. But there is also an Appendix Number 2 in that same Report of 1884 to which you wish to refer, as I believe?—Yes, I should wish to refer to both if you please. That gives a full analysis of our powers, and the way in which they all proceed upon certain recommendations of the Committees and Commissions which I mentioned at the beginning of my evidence.

48. You are now speaking of Appendix 2 to the Report of 1884?—Yes; Appendix 1 and Appendix 2; I refer to both. The only other observation I have to make with reference to our powers has already been made by reference to the Charitable Trusts (Recovery) Act of 1891.

49. Would it be convenient to combine in one paper the Appendices 1 and 2 of the Report of 1884, with illustrative extracts from the Reports of the Commission?—Yes, I will try and do that.

50. Is that all you have to say on the Memorandum?—That is all I have to say on the Memorandum.

51. And all that you wish to say in regard to the powers of the Charity Commission, at the moment?—Yes.

52. Coming now to the *personnel* of the Commission, you have given as your own status; will you kindly tell us the number and names of the Commissioners at the present moment, and their experience when they came?—There are four Charity Commissioner appointed under the first Act of 1853.

53. Could you refer to the section?—The first section of the Act of 1853 provides that it shall be lawful for Her Majesty, by Warrants under the Royal Sign Manual, to appoint four Commissioners, and also one secretary," "and three of the said Commissioners shall hold office during good behaviour; and the fourth, and every secretary, to be appointed under this Act, shall hold office during the pleasure of Her Majesty."

54. Will you please just explain the difference between those tenures of office?—The tenure of office during good behaviour is the same tenure as that of the judges; they hold office during good behaviour.

55. And they are removable by address?—By Address of both Houses of Parliament, I believe; and the other officers mentioned here are to hold office "during the pleasure of Her Majesty." The fourth Commissioner "and every secretary to be appointed under this Act shall hold office during the pleasure of Her Majesty." Then it provides by Section 2 that "The said three Commissioners so holding office during the good behaviour shall be paid as hereinafter mentioned;" and then the 5th section provides, "That no paid Commissioner to be appointed under this Act shall be capable of sitting in the House of Commons during the tenure of his office." So the result of that is that the three Commissioners holding office during good behaviour, being paid Commissioners, cannot sit in the House of Commons; but the fourth Commissioner holding office during the pleasure of Her Majesty, and not being paid, can.

Chairman—continued.

56. There are two paid Commissioners besides yourself?—Mr. Alderson is the second Commissioner; he was appointed in the year 1885; and Mr. Hope is the third Commissioner; he was appointed in 1879.

57. And who is the fourth and unpaid Commissioner?—Mr. Francis Stevenson, Member for the Eye Division of Suffolk, has within the last few days been appointed the Commissioner, who, being unpaid, is capable of sitting in the House of Commons.

58. And those are the four Commissioners appointed under the Act of 1853 to deal with Charitable Trusts?—Yes.

59. Now, will you pass to the Commissioners who deal with the Endowed Schools?—By the Endowed Schools Act, 1874, which transferred the powers previously exercised by the Endowed Schools Commissioners to the Charity Commissioners, it was provided by the 2nd section that Her Majesty by Warrant under her Sign Manual may "from time to time appoint any number of persons, not exceeding two, to be paid Charity Commissioners for England and Wales, and a person to be secretary, in addition to the three paid Charity Commissioners and secretary capable of being appointed under the Charitable Trusts Act, 1853 to 1869"; and there are two Commissioners now who have been appointed under those powers; they are appointed as paid Charity Commissioners, and therefore they are incapable of sitting in Parliament. It is provided by that section also that "the two additional Commissioners and additional secretary appointed in pursuance of this Act, shall hold office during Her Majesty's pleasure."

60. Then the tenure of office of the two Endowed Schools Commissioners stands on a rather different footing from that of the Charity Commissioners?—They hold office on the same tenure as the Parliamentary Commissioner appointed under the Charitable Trusts Acts, viz., during Her Majesty's pleasure.

61. Will you give us the names of the two Endowed Schools Commissioners?—The names of the two Endowed School Commissioners are Sir George Young and Mr. Richmond.

62. You mentioned the Charity Commissioners as first, second, and third Commissioners; do you observe any such order with regard to the Endowed Schools Commissioners?—No; Sir George Young is the senior of the two.

63. Now with regard to the Act relating to London; was there not an Act relating to London creating Commissioners?—That was an Act called the City of London Parochial Charities Act, 1883, 46 & 47 Vict. c. 46, and that Act I may say is framed on the lines of the Endowed Schools Acts.

64. Has it expired?—It has expired.

65. Then we need not dwell long upon it; those Commissioners have ceased to exist?—They have ceased to exist. The Act provided for the appointment of two additional Commissioners, but the last of those Commissioners, Mr. Anstie, ceased to hold office on the 30th September 1892, and the powers of the Act then expired.

Chairman—continued.

66. It was a temporary Act, in short?—Yes, it was a temporary Act.

67. Reverting to the Endowed Schools Act, is that kept alive by the Expiring Laws Continuance Act?—It is now; it was for some time kept alive by special Acts prolonging the powers for three or five years.

68. The powers under the Endowed Schools Acts are merely annual?—Yes, the Endowed Schools Acts are included in the Expiring Laws Continuance Act every year.

69. Now let us, if you please, turn to the functions of the Charitable Commissioners; they are of two kinds, of course, judicial and administrative, are they not?—Yes, I think they may be described in that way.

70. Can you give us an amplification of that; will you turn to the Memorandum again?—I will. The difficulty of drawing a strict line of division between the judicial and administrative functions of our Board has its origin in this: that, deriving powers as we do largely from the Court of Chancey, we exercise powers which are of a mixed nature. The Court of Chancery generally, and particularly in the case of charities, has many administrative functions; of course a great deal of the work of the Court of Chancery is done in Chambers, and that, although it has a judicial aspect, has also very decidedly an administrative aspect. But if I might discriminate at all, referring to paragraph 18 of the Memorandum again, one might say that (*c*), (*e*), and (*f*), are perhaps more judicial in their nature than the other functions. Taking (*e*) which is the power of framing *cy-près* schemes is certainly judicial; and the power of deciding upon the application of capital to charitable trusts, as it involves a going beyond the scope of the original trusts, so far as it does that is judicial also. But as I said before, the difficulty of drawing a strict line is very great. We have in the exercise of that power of making *cy-près* schemes, and in the exercise of almost all our functions, continually to construe deeds and Acts of Parliament; and that of course is a judicial function; perhaps one of the most distinctly judicial functions that we have. A considerable part of our time at the meetings of our Board is taken up with consideration of the terms of Acts of Parliament and Deeds; and under the Local Government Act passed last Session many questions will arise as to which we shall have to give an opinion, subject to appeal. And that reference to appeal perhaps enables one to illustrate better the judicial character of our work; because our orders for the appointment of trustees and the establishment of schemes and the vesting of property made under the Charitable Trusts Acts, are subject to an appeal to the Chancery Division of the High Court; and in like manner our decisions under the recent Local Government Act are by a section of that Act made subject to appeal.

Mr. *Jesse Collings.*

71. Do we understand that the Charity Commissioners have the duty of construing the meaning of an Act of Parliament, and that the construction which they put on it, and the administration resulting therefrom has all the power of law, subject to the appeal which you have mentioned; that they can act in fact as a judge?—I cannot do better than refer to the recent Act in that particular. The 70th section of the Local Government Act of 1894, says: "If any question arises, or is about to arise, under this Act as to the appointment of the trustees or beneficiaries of any charity, or as to the persons in whom the property of any charity is vested, such question shall, at the request of any trustee, be determined in the first instance by the Charity Commissioners, subject to an appeal to the High Court, brought within three months after such determination." That is the most recent expression of the opinion of Parliament.

Mr. *Jesse Collings*—continued.

72. I mean in the absence of any positive direction such as is found in the Act of 1894, where the Act itself makes it subject to appeal, do we understand that the Charity Commissioners can give their own construction of the Act, and state what in their opinion is the meaning of it, and can administer the Act on that opinion, subject of course to the appeal to the Court of Chancery?—Yes.

73. In other words, can they act exactly as a judge sitting in a court of justice dealing with an Act of Parliament?—I take it that we have to interpret these Acts as best we can, and act upon them subject, as the honourable Member remembers, to an appeal to the High Court in certain cases. Perhaps it would be convenient if I were to give the reference to the sections which give the appeal as I have given the reference to the Local Government Act. The Appeal from our Orders is given by the Charitable Trusts Act, 1860, Sections 8 and 9; and the Charitable Trusts Act, 1869, Section 10.

Chairman.

74. As I understand the Charity Commissioners inherit powers from the Court of Chancery?—The powers of the Court of Chancery are directly transferred to us by the second section of the Act of 1860, to which I referred.

75. May I ask, do you find by experience that the judicial functions decrease or increase relatively to your administrative functions; that one part of your work tends to increase more than the other?—No, I do not think I could say there is much change. The two are very much bound up together. Our annual reports contain some tables each year bearing on that question at the beginning of the report. For instance, there is one at page 8 of the 41st Report for last year, which shows the number of what we may call judicial orders that we make, and which seems to keep gradually increasing year by year.

76. Before the Committee of 1884 you were examined, were you not, at considerable length with regard to the judicial part of your functions by the present Lord Justice Davey, then Mr. Davey?—I was.

77. Could you just refer us to the answers you gave then?—The evidence which I gave in the answers to questions put by Lord Justice Davey is to be found in those numbered 1116 to 1331. Lord Justice Davey went very fully through the whole of the legal aspect of our work then.

78. The

Chairman—continued.

78. The judicial part of your procedure is given after consultation at a board meeting, I understand. Will you explain to us how it is given, how it arises?—All our work of every sort is distributed between the Commissioners. Perhaps I had better confine myself now to the Charitable Trusts work. That is divided between the three paid Commissioners, appointed as I have mentioned, and I may say that we work on the principle of mutual confidence, which is the only principle that is possible, if we are to do the amount of work we have before us; that is to say that each Commissioner is entitled to pledge the board by his own acts, subject to this: that in any case on which he considers the board ought to be consulted he consults the board. For instance in innumerable cases of leases and sales, it is quite unnecessary for a Commissioner to consult his colleagues. A difficult case of that sort would be brought before his colleagues. The board meet twice a week and its practice is to consider cases referred to it.

79. Considerably the larger number of judicial decisions, so to speak, are the individual decisions of the Commissioners?—I can hardly say that without knowing exactly what the phrase "judicial decisions" means. I think the decisions which are best known in the country and invite most notice are decisions of the board, almost invariably on important matters.

80. Is your work geographically distributed among the Commissioners?—Yes; it is.

81. Perhaps you will explain that?—The country is divided into three districts. I, as Chief Commissioner, have the general charities (that is to say, charities the benefits of which are not confined to a particular place), London and the counties of Hertford, Essex, Middlesex, Surrey, Sussex, and Kent. The rest of the country is divided pretty equally between Mr. Alderson and Mr. Hope. Mr. Alderson's district includes Wales, and the south and south-west of England; Mr. Hope's, the northern and eastern counties, the dividing line running somewhere between Warwickshire and Worcestershire, I think, from north-west to south-east. I take a smaller share of the general work because I have many other duties to perform.

82. May I ask, do you, as Chief Commissioner, exercise a general supervision by raising points at the Board after they have been decided by a single commissioner?—I should certainly do so where it might appear necessary.

Mr. *Jesse Collings.*

83. As I understand the Chairman's question, it was whether certain judicial matters were settled by an individual commissioner without their being referred to the Board?—Certainly a very large number if in "judicial matters" you include such things as the sanction of a lease or sale; it would be absolutely impossible that such matters as those should be discussed by the Board.

Chairman.

84. Would you give us two illustrations: a point which a commissioner would feel himself quite entitled to decide without reference to his

Chairman—continued.

colleagues, and a point that he would reserve?—A point which we continually have is the construction of schemes, we will say a scheme which provides for the giving of benefits to children who have attended public elementary schools on certain conditions and for a certain time. We often have questions as to that. Those questions would, I think, almost invariably come before the Board. On the other hand, we continually, every day, have to consider whether trustees shall be authorized to spend capital funds on improvements, or to mortgage their property to raise money for improvements, or to sell, or to let, or to purchase. Those cases very rarely come before the Board; they are questions of detail.

85. Have you any rules as to what should come before the Board?—No, none whatever, except the principle of mutual confidence: we trust each other.

Mr. *Jesse Collings.*

86. Having considered this point with reference to Elementary Schools, or any other in the Board, and the Board having decided the point, and a scheme having been propounded on that decision, I want to ask, is there any appeal against that scheme, or any features of the scheme?—I was speaking rather of the construction of a scheme already made than of a decision upon which a scheme is to be based. The case I was putting in answer to the Chairman's question was that of a scheme made, and a question arising before us as to the construction of a particular clause. Upon that I may add that our schemes always contain a clause enabling trustees to refer questions arising under the scheme to us for arbitration, and it is under that that we exercise a good many judicial functions.

Sir *Stafford Northcote.*

87. May I ask whether it is not the case that many of these cases which are now decided by a single commissioner have already, in principle, been decided by the board?—Certainly.

Chairman.

88. You are, in fact, accumulating a body of precedents?—Yes.

Mr. *Oldroyd.*

89. If, in the course of the settlement of a scheme, a question arises that is beyond a settled line of action of the board, would each commissioner think it his duty to consult the board on the question?—Certainly.

90. His paramount duty?—Yes, certainly.

Chairman.

91. I suppose each Commissioner would have in his mind this, that it was desirable to preserve harmony and continuity?—Yes, and uniformity of decision.

92. Have you anything further to say on that point of the judicial and administrative functions of the board?—No, not at present.

93. Turning to another point, will you give us a summary of the Committees which have sat with reference to the Commission since the great Committee, as I may call it, of 1835?—Since

Chairman—continued.

the foundation of the present Charity Commission do you mean?

94. Yes?—There are only two, I think, as regards the Charitable Trusts Acts; that is to say, the Select Committee of 1884, which was appointed to inquire into the working of the Charitable Trusts Acts and of the Allotment Act, 1882, and the Select Committee of 1886 and 1887, which inquired into the working of the Endowed Schools Acts. Those are the only Parliamentary Committees.

95. And the Endowed Schools Committee of 1873, I think?—Yes; that was a Committee to inquire into the administration of the Endowed Schools Commissioners; it did not really affect the question of the Charity Commission.

96. Those are the only three, are they?—Yes.

97. I wish now to ask a few questions on the recommendations of the Committee of 1884, and the action of the Charity Commission with respect to those recommendations. I will turn in the first place to page ix. of the report of the Committee of 1884, under the head (2), "The enlargement of the governing bodies of charities," you see there a paragraph which I will read: "The Charity Commissioners, in framing a new scheme, as a rule greatly enlarge the number of trustees, and require that a considerable number of them shall be representative, *i.e.*, nominated by some existing representative body, such as the corporation, where the charity is within a municipal boundary; and in the case of rural parishes, where there is no such representative body, they not unfrequently require that a certain number of the trustees shall be elected by the ratepayers. It is stated that this introduction of the local representative element has been of comparatively recent date, and has been extended, as experience has shown that it has given satisfaction. Your Committee are of opinion that it is of great importance to give effect to this principle, and, without laying down any specific rule as to the proportion of such representative trustees, think that it will be well to secure in the future a full application of this principle." May I ask what your action has been in reference to that since that recommendation?—Generally speaking, our action has tended to increase the number of representative trustees. I can refer the Committee to a very full account given in our 40th report last year, of our action in that matter, paragraphs 29 to 37. That states how we have gradually introduced the principle of representation; and in fact we quote in paragraph 34 a recommendation of the Committee on that point, and go on in paragraph 35 to say that we have been encouraged by that expression of opinion to extend the application of the representative principle further.

98. May I take it that you fully accept that principle of representation?—Quite.

99. You are familiar with the return which was issued on a motion of mine on the 8th June 1893 with regard to the endowed schools schemes?—Yes; I am afraid I have not got it with me.

100. Will you look at that (*handing the Return to the Witness*). That is a full and interesting return as to what has been done by the

Chairman—continued.

Endowed Schools Commissioners with respect to the application of the representative principle to the governing bodies of endowed schools?—Yes.

101. Could you give us a similar return for half a dozen representative counties with regard to charitable trusts?—It would take some time to prepare it; I will do the best I can.

102. If you will take, say the county of York, two or three midland counties, and two or three southern counties, and two or three south-western counties?—I will do whatever the Committee wish. I think I ought to make this remark, that you will find a good many cases in which there was no representation; but there is a reason in each case. It would have to be a very full return to do justice to the Commission. I speak advisedly, because for the purposes of the Local Government Act, I have to get out something of the sort, and I found that the return in order to be complete would require a particular reference to the circumstances in each case.

103. You will acknowledge the importance of the point. The principle was laid down by this Committee of 1884; you have taken certain action on it as set forth in your 40th Report, and I think that a return of that sort would be desirable?—It shall be made; but I was saying by anticipation that there would have to be a good deal of explanation of it. These of course are picked cases. Our schemes under the Charitable Trusts Acts deal with cases of infinitesimal amount and importance as well as large cases.

104. The Committee of 1884 was dealing with Charitable Trusts, was it not?—Yes.

105. And their words are very strong?—Yes.

Mr. *Howell.*

106. You said that you had prepared some such return for some report; could not that be in the possession of this Committee?—I had a return prepared for three counties; I think I took 20 schemes in each of the three counties; but I chose only those schemes which deal with the constitution of bodies of trustees, and perhaps the Chairman's question refers to those only. We make many schemes in which we do not deal with the constitution of the body of trustees, merely short schemes making a particular provision.

Chairman.

107. It is no use including in the return anything outside the scope of the return; but my question points to this: Can you lay before us evidence in the shape of a return as to what the Charity Committee have done during these ten years in respect of that paragraph in the report of the Committee?—Yes, I understand.

108. I gather that you see no difficulty in preparing such a return for illustrative purposes?—No. Perhaps in the first place I had better place before the Committee those Returns prepared for the Local Government Board, and then if more is required it can be given.

109. Do those cover the whole of the country?—No, three counties; I forget which counties they are. I thought you had better see them as a specimen; I will bring them next time.

110. Then

Chairman—continued.

110. Then turning to another recommendation of the Committee, on Page 11 of their Report (it is rather upon the same point) I find this: "Your Committee, while of opinion that the powers and duties conferred upon the Commissioners may be safely extended to Charities which have hitherto been exempt from their jurisdiction, would accompany that extension by a more direct recognition of the wishes of localities. In the administration of charitable funds the stimulus of private interest is absent, and the best available substitute for it is a direct and official responsibility to the inhabitants of the district." There is the same point; have you anything to say with regard to that?—I think I should refer again to that long passage in our 40th Report, paragraph 29 to 37. I think I may safely say that every year we go more and more on the lines indicated here.

111. Then the next paragraph is this: "Your Committee also attach much importance to the concentration of Charities within a certain area under one management, so as to lead to greater economy and efficiency of administration, and to prevent the waste arising from the administration of different Charities by separate governing bodies, often with diverse aims and at cross purposes."

112. Have you anything to say with regard to that?—Yes, it is a matter that we give a great deal of attention to. We often get an application from the trustees of one Charity in a parish with five or six Charities, and we always endeavour to make that the means of getting the other Charities before us, and making one scheme to administer all the Charities of the parish, with a view of saving overlapping of relief and expenses of management. But that is a very laborious process, because we have to get an application from each body of trustees in the parish, and that sometimes involves delay; but I believe the results are beneficial when we manage to get that done; and we are strengthened, of course, in that policy by that recommendation of the Committee.

Sir *Stafford Northcote.*

113. Your powers of concentration are limited I suppose by the 50*l.* limit?—Yes.

Chairman.

114. Do you suggest to us that the 50*l.* limit under the Act of 1860 is a barrier to carrying out this recommendation to its entirety?—Yes, and the Committee of 1884 fully recognised that.

115. Passing on to the next paragraph, it reads thus: "Your Committee are further of opinion that where a Charity open to all classes now exists within the limits of a Municipal Corporation, the same notice should be given to the Corporation of any scheme affecting such Charity as is now given to the trustees, and they think it is of the greatest importance that full public inquiry should be held before any scheme is finally assented to." What influence has that had upon the action of the Charity Commission?—As regards the notice to the Corporation, we acted upon that immediately, and it has been acted upon ever since.

Chairman—continued.

116. Have you made any rule to that effect?—Yes, we made an Order soon after we received the Report of the Committee, a General Order, that notice should be given to a Municipal Corporation of any scheme affecting a charity within the limits of that Corporation.

117. Of course there are very large areas of country where there is no Municipal Corporation; do you follow the same rule with reference to the local authorities in those cases?—No, we have not any definite rule at present; but I think the Local Government Act of 1894 supplies us with the means of giving such a notice as is indicated.

118. Then we may take it that from now the policy will be adopted all over the country?—We shall do what the Act of 1894 requires us; I do not at this moment remember what it is, but I think parish councils have very full powers to get to know all about it.

Mr. *Jesse Collings.*

119. Independently of the powers of the Act of 1894, do the Charity Commissioners do with the constituted local authorities throughout the country exactly as they have been doing with regard to the Municipal Corporations?—We have no general rule; we deal with each case as it arises.

120. But I mean this: in carrying out the recommendation of that Committee, a difficulty was found with regard to rural districts where there is no municipal authority; but now that difficulty being removed by the appointment of new authorities all over the country, the question of the Chairman tended rather to ask if the Charity Commission will also take the same steps with these new authorities as they have been doing with the municipal authorities?—I should hardly like to answer that question off-hand; I should hardly like to pledge my Board as to a course of action. I shall be prepared, perhaps, at a later day to do that. We are, I may say, always anxious to give notice, and we take great pains to do it, and sometimes incur great expense on that account.

Chairman.

121. I will put it in this way: by the Acts of 1888 and 1894 a very different state of things has arisen outside the municipal areas?—Yes.

122. Do you see any objection to pursuing the same course with regard to those outside areas as you have pursued since 1884 with respect to the municipal areas?—None whatever.

123. That is on the point of notice; now, in respect to "full public inquiry"; have you anything to say with regard to that?—That we have not done, because it is absolutely impossible without such an addition to our staff as I do not suppose the House of Commons would for a moment contemplate.

124. Then your answer to that recommendation is, that you have not been provided with the means to carry out the recommendation of the Committee?—That is what I should say. We hold a public inquiry in cases where it seems to us to be specially necessary.

125. Of course this Committee of 1884 when it

Chairman—continued.

it made the recommendation knew what the means at your disposal were?—I suppose so.

126. They had full evidence and knew the constitution of the Board?—I suppose so.

127. Then may I take it that latter point has been passed over by you for the reason that you have stated?—It has. We have held a public inquiry in every case in which we thought it specially necessary and were able to do it. Our inclination is to hold a public inquiry, I may add; it facilitates our work very much if we can.

128. Have you anything more to say with respect to the recommendations; I notice that some of them point rather to legislation?—I think several of them do; and I do not know that I need offer any opinion upon those recommendations.

Sir *Stafford Northcote.*

129. With reference to page 11 of the Report, this question of the 50*l.* Charities, the opinion was expressed by the Committee that there was no ground for maintaining the limit. That of course is a subject for legislation; nothing has been done so far to carry out that?—No; nothing has been done yet.

Mr. *Jesse Collings.*

130. You told us that that limitation of 50*l.* was a great barrier to the concentration of the Charities of a locality. The question I should like to ask is this: do you know whether it is not the case that if a charity is above 50*l.* and they apply to the Charity Commissioners, the whole business of the Charity, everything connected with it, is taken out of the hands of the trustees and absolutely placed in the hands of the Charity Commissioners?—By no means.

131. Not if they apply to the Charity Commissioners?—If they apply to the Charity Commissioners for a scheme, we make a scheme which probably re-constitutes the body of trustees, but leaves the administration of the Charity with the trustees so re-constituted. We have no powers to administer Charities.

132. I was not speaking of the subject of the administration of the Charities, but of the change with regard to the administrative body; they have no voice in the matter, have they, except by personal influence?—The Acts of Parliament give them no voice except this, that we are bound to give notice, and bound to consider any objections or suggestions made as the result of that notice.

Chairman.

133. Now, I turn to the question of Parliamentary responsibility and control, which really looms very large in our reference. The terms of reference are that we are appointed to consider "Whether it is desirable to take measures to bring the action of the Charity Commission more directly under the control of Parliament." I will ask you now, if you please, to say anything with regard to that appertaining to the position of the Fourth Charity Commissioner—the Parliamentary Commissioner; will you explain how that arose in the first instance?—That is very fully set out in our 35th Report, pages 7 to 10.

Chairman—continued.

I have already explained, I think, the Act of Parliament by which the Parliamentary Commissioner is constituted; and this passage in the 35th Report begins by stating, as I have stated, the constitution of the post of the Parliamentary Commissioner. Then it goes on, on page 8, to make a quotation from a speech of Lord John Russell in bringing in the Bill of 1853 into Parliament. He said: "It was the opinion of that Committee" (that is a Committee of the House of Lords) "that it would be better that the question of general superintendence and administration of Charities should be altogether separated from any political question and from the interests of any Party. They thought that that could not be effected by the proposition which had been made by the Government." Lord John Russell then proceeded to state the amended constitution as it now stands in the Act of 1853, which had been proposed by the Committee of the House of Lords, as that of the body to be entrusted with the powers created by the Act, and added, referring to the Fourth Commissioner, "There was one person, as the Bill now stood, who did not require a legal qualification, and who would be a member of that House." Then the Report goes on to state that Sir George Grey was the first Parliamentary Commissioner, but was not then holding office under the Crown; but from that time, from the time that Sir George Grey resigned, very shortly afterwards until the year 1887, the post was always held by a member of the Government. Lord John Russell held it at one time, and as soon as a Vice-President of the Committee of the Privy Council on Education was appointed, which was not till some few years after the Act of 1853, from that time till 1887 the post was always held by the Vice-President; but it was found, as the labours of the Education Office increased, that the Vice-President was unable, as his predecessors had done, to attend, even occasionally, the meetings of the Charity Commissioners; and his representation of the Commissioners was really confined to his giving such answers as the Charity Commission might furnish him with, to questions put in Parliament. That was found to be inconvenient, and in 1887 a change was made by the appointment to the post of a gentleman who was not connected with the Government. Mr. James William Lowther was the first so appointed. He held office until 1891, I think, when Sir Stafford Northcote succeeded him. He was succeeded by Mr. Thomas Ellis, who, of course, was a member of the Government, and now Mr. Francis Stevenson, as I said before, holds the office.

134. Then there have been four Parliamentary Commissioners?—Since the office was separated from that of the Vice-President.

135. Four Parliamentary Commissioners, of whom three have not been members of the Government, and one has?—Yes.

136. Have you anything further to say with reference to this 35th Report?—No; except that I think I should like to refer generally to this passage.

137. That passage in the Report traces the history?—Yes, it traces the history completely.

138. You

Chairman—continued.

138. You gave evidence in 1884, I think, pretty fully on the subject; perhaps you will refer us to that?—It was not a definite subject of inquiry by the Committee of 1884.

139. But there was some Evidence given on it to that Committee?—Yes; there was evidence given. The part of the Evidence of 1884 which refers to this subject is Nos. 702 to 707, 1001 to 1004, 1349 to 1359, and 6357 to 6372.

140. Those answers last mentioned were in Sir Seymour Fitzgerald's evidence?—That last was Sir Seymour Fitzgerald's evidence; he was examined more definitely on that point, I think, than I was.

141. He was Chief Commissioner at the time?—Yes, he was Chief Commissioner at the time, and had for many years been a Member of Parliament.

142. Will you give us now the exact status of the Parliamentary Commissioner. We have heard that he holds office during pleasure; does he attend meetings of the board?—Yes. Since the office was separated from that of Vice-President, the Parliamentary Commissioner has always attended the meetings of the board.

143. And takes part in your decisions and votes?—Yes.

144. His Parliamentary position gives him no pre-eminence in any way, as a matter of fact?—I do not think so; he is treated, when he comes, as any other Commissioner.

145. He is not responsible to Parliament, in any way, for the policy of the board?—No, I think it has always been held that he is not responsible to Parliament, as the Chief of a Department is.

146. Is his function to explain in Parliament the action of the Commissioners, and to answer questions?—Yes, I think that has always been considered his function.

147. When the Estimates come on he has to defend the Estimates, has he not?—Yes, it has been the practice of the Parliamentary Commissioner to defend the Estimates, certainly of late years. On some points they are defended by the Treasury.

Mr. *Lawson.*

148. It is rather explaining the Estimates, is it not, than defending them?—Yes, that would be so.

Chairman.

149. Has he anything to do with the preparation of schemes, for instance?—He sits at the board when schemes are discussed.

150. But does he take any part in the preparation of them before they come to the board?—No.

151. He has no geographical district?—No; he has no district assigned him.

152. He comes to sit in council on what is brought before him by others who have themselves prepared it?—Yes.

Mr. *George Russell.*

153. He attends the meetings of the board; he does not do the ordinary work of a Commissioner between whiles?—That has not been the practice up to the present.

Mr. *George Russell*—continued.

154. As a matter of fact his operations are confined to the board meetings?—He does not undertake any ordinary departmental work, but between board meetings he comes to prepare for answering questions, not merely questions put formally in the House, for I believe a great deal of the work of the Parliamentary Commissioner is to answer questions informally put to him in the Lobby, and he prepares a good deal for that.

Chairman.

155. But is this the clear distinction between the Parliamentary Commission and the other Commissioners, that they are occupied day by day in preparing schemes and consulting about schemes, and they have a geographical area assigned to them and none of that applies to him?—Not as the practice is at present.

Mr. *Griffith Boscawen.*

156. It might apply to him?—There is nothing whatever in the Act to prevent it.

Chairman.

157. Would you feel able to give us your opinion as to whether it has added to the strength of your Commission, having a Parliamentary Commissioner, have you anything to say on that point?—I have a very decided opinion that it has added strength, in this way; that since the Parliamentary Commissioner has been able to give the first of his time, so to speak, to our work, he has been able to explain our work unofficially and privately in a way that has prevented a great many questions and motions, I am sure, in the House of Commons.

158. He has smoothed the action of the Commission as far as that body is concerned?—I think very much.

159. Will you explain a little further why?—I suppose it is this: that the constituents of every English Member of Parliament are interested in charities, and continually communicate with him about their charities, and a Member so communicated with frequently is able to get from the Parliamentary Commissioner an explanation without bringing the matter before the House. That I consider is a great smoothing of our work.

160. Has he been the means, the conduit pipe, if may put it so, for conveying rather more directly to the Commission the public feeling?—I think so. I am sure he has.

161. That has been a considerable advantage?—That has been of very great advantage to us; and it has been of very great advantage to us to have a Member of the House of Commons, who knows the temper of the House of Commons, present at our board.

162. Had you been somewhat in the dark before as to the temper of the House of Commons and the public mind?—We are much more in touch with it now than we were before.

163. It has been a distinct gain to you in that respect to have a Parliamentary Commissioner?—A distinct gain.

164. Should you feel that the Parliamentary Commissioner was placed in rather an awkward position if he had to explain Estimates and a

Chairman—continued.

policy which he could not himself quite approve of?—Yes; I think it would be awkward.

165. It would be his duty to do that, I suppose, as long as he held the position?—I suppose the House would expect him to give them information on the subject.

166. Has the Government of the day, by the appointment of the Fourth Commissioner, not being necessarily a member of the Government, been absolved from any responsibility with regard to the Estimates in the House of Commons?—No, I do not so regard it; the Estimates are the Estimates of the Treasury, the Government.

167. It used to attach, of course, to the duty of the Vice-President, who was always a member of the Government?—Yes; he has no direct connection with our board now.

168. Therefore it was not part of his duty if the Commission is attacked in any way to defend it?—As regards the Charitable Trusts Acts, I should say no.

169. But it used to be?—It used to be as long as he was Parliamentary Commissioner.

170. There has been a distinct change in that respect. Am I to take it that you have not now the Government of the day at your back in that respect?—I do not think we had the Government of the day at our back in those days; I was not conscious of it. The change has come to very little.

171. In fact your body has been an extra Parliamentary body for the reasons given by Lord John Russell, and a non-Parliamentary body?—Yes; that is what I gather was intended by Lord John Russell in that extract I read.

172. Still you think that this half-way house, if I may so term it, has been a distinct advantage by bringing you more into touch with the mind of the House of Commons?—Yes; and it has been necessary that we should be, because we have attracted the attention of Parliament much more of late than we did formerly. Until the last 12 or 15 years we very seldom came up for discussion in Parliament, and the questions that are before the Committee would not have arisen.

173. Do you think that you are likely to attract the attention of Parliament more and more as time goes on?—It seems so.

174. Do you think that that half-way house will be sufficient?—It is very difficult to answer. Our position is almost unique. No other non-political body is so much before Parliament. There are other offices which are theoretically in the same position as we are, but they do not come before Parliament as we do. In the last 12 or 15 years we have attracted the notice of Parliament so continually that it becomes of course a question (and that I suppose is a question for the Committee), how far the work can be carried on without political support.

175. All other departments have to derive the momentum which carries their policy through Parliament from the political party which happens to be in power?—Yes.

176. And you have not that?—No; and they have another momentum, a momentum which

Chairman—continued.

helps them to get what they want from the Treasury.

177. That of course is another serious element in the matter?—That is a very important point in our position of course. We have not got the help of a political chief or representative either to defend our policy, or to help us in getting the means to do our work.

178. With regard to this, can you call to mind any other body that was in the same position as your own within the last 20 years. You used the expression just now that you are "unique"; was not the old Poor Law Board very much in your position?—Yes, it was.

179. And had not changes to be made in its relation to Parliament?—Yes, about the year 1847.

180. Because it was found that it was also outside what I may call Parliamentary knowledge and political forces?—Yes. I had occasion to study the history of that time, because I was attached to the Poor Law Board at one time; and it was the case that the work could not be carried on. I think there was a breakdown. They were attacked in many ways, mainly, I think, by "The Times."

181. And it has been found that their absorption into the Local Government Board was a necessity of the time which has turned out very well?—I believe so.

182. Are there not many points of similarity in your case?—Yes, I should think there are. We have contact with local agencies; our points of contact, of course, are very much more numerous than those of the Poor Law Board, because they dealt with localities as grouped in unions, and we deal with parishes and even smaller areas.

183. And those points of contact with local feelings and local powers are likely to increase very rapidly in your case?—I think so, especially as the result of the recent Local Government Act.

184. Is there anything further you wish to add upon that point of Parliamentary control and responsibility?—No, except that I should not wish to be understood as despairing of being able to go on as we are. But it is difficult work and responsible work.

Mr. *Jesse Collings.*

185. With respect to Parliamentary responsibility and control, I want to bring out a point as to the work of the Parliamentary representative. Is it not a fact that first of all Parliament has no cognisance whatever of the special work of the Charity Commissioners in its details; and secondly, that Parliament has no power whatever to alter the special work of the Charity Commissioners except by fresh legislation?—As regards the first question, Parliament has as much cognisance of our work, I suppose, as it has of the details of the work of any department; and Parliament can always get returns of our work.

186. But, as a matter of fact, there are no special reports made to Parliament of the details of each particular case?—No; that would involve many thousand reports.

187. Therefore

Mr. *Jesse Collings*—continued.

187. Therefore Parliament practically has no knowledge (I do not say whether it is right or wrong) of the details of the work which is going on?—No.

Mr. *Wickham.*

188. How many years has the Charity Commission survived the Poor Law body, which was put an end to because it could not get on?—We have lived 41 years, and they lived for 12 years.

Mr. *Lawson.*

189. Is it not rather the case that it was modified, not put an end to?—It was the Poor Law Commission up to 1847, and then became the Poor Law Board, just as the Agricultural Commission has become the Board of Agriculture.

190. And in 1871 it was further transformed into the Local Government Board?—Yes.

Chairman.

191. Now, to turn for a moment to the second part of our reference, namely, that we are to inquire whether it is desirable to "give more effectual means of dealing with the business" that comes before you; have you anything to say upon that? In the first place, let me ask you this: throughout these reports you give a very valuable table each year of the number of schemes; could you combine that into a return for 10 years since the 1884 Committee, so as to give us the figures for 10 years on a sheet of paper?—To show how many orders of each sort have been made in the 10 years, do you mean?

192. Just to combine the annual figures?—Yes; that I could of course easily do. And I should also wish to put in a paper showing the increase of work in the last 20 years.

193. Quite so?—I could state generally, if asked, as to the means of doing our work, what the increase has been. The increase in our correspondence has been in 19 years about 70 per cent.; in the number of orders about 50 per cent.; and in our financial work, the work of the official trustees, considerably over 100 per cent.; and the increase of staff in the interval has been at the outside about 23 per cent.

194. With reference to the organisation of your department, have you anything to say?—As regards the work under the Charitable Trusts Acts, I think our organisation now as defined by the Act of 1887, which provided for the appointment of Assistant Commissioners is complete; what is wanted is more staff, but that of course is a matter of detail, not of principle.

195. Have you anything to say as to the direction in which you would like to strengthen your staff?—The need of strengthening the staff arises in this way: that as the work increases of course the Commissioners are obliged to delegate more and more of their work, and that is why a subordinate staff is required, and strength is required in the way of increasing Assistant Commissioners, so as to relieve the Commissioners more and more of work which can well be done by subordinates; and the only other increase is an increase of a purely subordinate staff.

196. You made some reference to this matter in your last Report, the 41st Report, at page 14?—Yes, we did.

Chairman—continued.

197. That is your latest expression of opinion on this point?—Yes.

198. Perhaps you would give us that in order that we may have it on the notes?—It is paragraph 14 on page 14 of the 41st Report. I need not read it at length, but the Committee will there find how the work has increased. Of course new charities are being founded every day.

199. You make a very strong statement here: "The ordinary staff of this office is, at the present time, barely sufficient to discharge, with even moderate despatch and regularity, the continuous duties imposed upon it by the Charitable Trusts Acts and other more recent Acts of Parliament?—Yes.

200. May I take it that you are falling into arrears?—I am afraid we are.

201. And likely to do so?—Yes, unless we can get an increase of staff, which I have every hope that we shall in the course of this year.

202. Then you have nothing further to say upon that?—No, I have nothing further to say upon that.

203. Of course, increase of staff means increase of cost?—Increase of cost.

204. Then the Charity Commission staff is likely to go on increasing in cost?—I think so; but the increase in the number of what you may call highly paid officers is not likely to be very great. The number of staff officers has not increased in the last 20 years.

205. Have you many schemes pigeon-holed; schemes that are lying in the pigeon-holes from lack of means to carry them through?—No. When a scheme is taken up it goes on, but it goes on slowly sometimes. I do not think that the schemes are very much delayed by want of staff in the office. Schemes when they once begin, I think, are generally carried through as fast as we can go, subject, of course, to a very considerable delay in drafting; that is rather, of course, the narrow neck of the bottle, as it is in many other departments.

206. I may take it then that schemes are not delayed very much for want of staff?—Except in the drafting. Schemes take very long to pass, but then they have to be communicated to the locality; we do all we can to get the opinions of the locality, and that involves very voluminous correspondence.

207. Sometimes they are delayed, I suppose, from policy—to smooth over a difficulty?—Yes, sometimes they are. And therefore one has to explain the cause of delay of each scheme; you could not judge without explanation in detail; and sometimes the people in the locality are very long in answering letters; sometimes they do not want the scheme.

208. Have you anything further to say on this matter of staff?—No, I have nothing further to say.

209. Can you give us an idea of the changes now since the Report of 1884; can you summarise them?—Yes. The principal changes which have taken place since the Report of 1884 are these: The passing of the Charitable Trusts Act of 1887; the account of that is to be found in the 35th Report, page 12: The passing of the

Chairman—continued.

Charitable Trusts (Recovery) Act 1891, which I mentioned before; that is another change. Then, thirdly, the expiration of the powers conferred by the City of London Parochial Charities Act which I mentioned just now, and the consequent reduction of two in the number of Commissioners. Then a slight change has been made in this; that at the time of the Report of 1884 a small portion of the work under the Endowed Schools Acts was done by the Commissioners appointed under the Charitable Trusts Acts, and it was found on the whole more convenient that the Commissioners appointed under the Endowed Schools Acts should do all that work. That is not a very large change.

210. I gather that the Endowed Schools work is confined now to Endowed Schools Commissioners?—Yes, it is. Then another change has taken place as regards investment of charity funds. I was examined at considerable length in 1884 as to the principles on which charity funds are invested. At that time it was our practice to countenance investments in Consols only, or as far as possible. Since that time the Court of Chancery has very much widened the scope of its investments, and we have followed suit, and now we sanction investments in any of the securities authorised by the rules of the Court of Chancery.

211. Have you seen any reason to regret that at all?—No, I do not think we have. It has involved a very considerable addition to the work of the office, but I have no reason to think that the charities have suffered.

212. Can you give us any idea as to the class of investments you make?—We adhere to the rules of the Court.

213. But those are rather wide, of course?—In practice, Railway Debenture Stock, India 3 per Cent., and India 3½ per Cents., are, I think, the most usual investments.

214. You do not range over the whole field of the Trustees Investment Act?—No, not so wide as the Trustees Investment Act.

Mr. *Oldroyd.*

215. Do you sometimes authorise investments in the bonds or stock of the municipality or local authority?—Yes, we do. I am much obliged to you for reminding me of it; we authorise investments and Corporation stock.

Chairman.

216. Have you anything further to say with regard to the Trust Investments?—I think not. We follow the rules of court.

217. But you do not go to the extreme latitude of the rules of court?—I think we should accept anything sanctioned by those rules. The stock I mentioned is the stock which is generally taken.

218. Of course there have been various proposals before Parliament since 1884 with respect to new legislation?—Yes.

219. Have you anything to say to us upon that head?—I think those proposals have generally been directed to the removal of the 50*l.* limit, and I do not think I have anything to add to my evidence in 1884 about that.

Chairman—continued.

220. Would you give us the reference?—It is in the index very fully; I do not think I have that reference at hand, because it ran throughout the evidence, I think; but it is summed up in the answer that I gave just now, that the existence of that 50*l.* limit was a hindrance to the making of schemes.

221. Then I may take it that coming as Chief Commissioner, you do not come before us with any proposal for fresh legislation in your mind other than the removal of the 50*l.* limit?—I have not come prepared to suggest any proposals. Looking at the reference to the Committee, I did not know it was expected of me to suggest any. The removal of the 50*l.* limit would make it easier of course to make schemes. If it was desired that we should make schemes more readily, it would be well to remove the 50*l.* limit.

222. But other than that you have no proposals to suggest?—There are some small matters. I think the most important of the subordinate matters is the amendment of the law which would allow a scheme established by Act of Parliament to be altered by some authority other than Parliament. A great many trustees in the country are put to the greatest possible inconvenience now, by the fact that their schemes are what are called Parliamentary schemes. That is very often the case with an Enclosure Act; that creates a trust for the poor; that cannot be varied in any other way except by going to the expense of another Act of Parliament; and it is found to press very hardly upon the localities. I should like if I might, to refer to one of our reports in which there is a statement of our views on that subject. I have not got the reference here, but I will put it in.

223. There is one point on which I omitted to ask you a question in the right place. You remember in the Report of the Committee of 1884 it was suggested that there should be a Standing Committee of the House of Commons appointed to deal with schemes?—Yes, there was such a suggestion.

224. When examining you on the point of Parliamentary control I ought to have brought that in. Have you any observations to make upon that, upon the Charity Commission side; I do not ask you upon the House of Commons side. Would it facilitate business in any way, or would it impede it?—It would make the process of establishing schemes longer, I think.

225. I merely wished to give you an opportunity of saying anything you desired on that subject?—I do not think I have anything else to say on that point.

226. You have nothing further to say?—No, not from our point of view.

227. Is there anything else you wish to add to your evidence?—I do not think I have anything to add except this, that I should wish to add to the list of the events which have happened since 1884 that we have undertaken in the last few years as is described in our recent reports, inquiries, comprehensive local inquiries, into the charities of a particular county. It was begun in the case of the county of Denbigh. The Welsh representatives in Parliament were exceedingly

Chairman—continued.

exceedingly anxious about 1887 that some inquiry of that sort should take place with a view, I think, partly to the passing of the Welsh Intermediate Education Act; and we instituted an inquiry in the year 1888–89 into charities in the county of Denbigh, with the result that Parliament has before it a complete new edition, brought up to date, with the reports, of what is known as Lord Brougham's Commission in the County of Denbigh. Since that time and the passing of the Local Government Act of 1888, various County Councils have become interested in the charities of their counties, and have taken action more or less definite to obtain information on that point. That has led to the passing of an Act called the Charities Expenses Act, 1892, which enables County Councils to contribute to the cost of an inquiry conducted by us into the charities of their county. Under that Act three

Chairman—continued.

inquiries are already in progress; one in the West Riding of York, one in the county of London, and one in the county of Merioneth; and other inquiries are contemplated. The definite arrangements for others have not been made. That of course is a very large work, and will result sooner or later in the issue of a complete statement of all the charities of the country.

228. In fact a second addition of the Report of Lord Brougham's Commission?—Yes. There are passages in our report for this year which give an account to those inquiries, to which I had better refer the Committee; they are to be found in paragraphs 8 to 22.

229. Do you wish to add anything on that point?—Nothing.

230. Have you anything further to say?—No, not at present.

Wednesday, 25th April 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Donald Crawford.
Mr. John Ellis.
Mr. H. L. W. Lawson.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS IN THE CHAIR.

Sir HENRY LONGLEY, K.C.B., recalled; and further Examined.

Chairman.

231. JUST one or two questions, if you please, about these Returns and the information which you said you would give last time. You remember that I asked a question with respect to a Return showing the introduction of the representative principle in governing bodies. I understand that you see no difficulty in letting us have in the course of the next few weeks a Return from the 1st of January 1885 to the end of December 1893, of schemes constituting governing bodies of the counties of York, Nottingham, Norfolk, Sussex, Somerset, and Glamorgan?—That could be done.

232. You will let us have it?—That I will have put in hand at once.

233. On the lines of the Return from the Endowed Schools Department of last Session?—On the lines of the Return which you moved for.

234. Then with respect to your 10 years' work, if you could give us a table in columns showing the work, that would assist us?—I am afraid I did not quite understand what was wished for. What I will do is to put in a tabular statement of our Orders for 10 years on the lines of the statement, which extends to only eight years on pages 6 and 7 of the 41st Report.

235. And then in respect to Appendices Nos. 1 and 2 of the year 1884 Report, I think Mr. Howell put a question to you on that; you are preparing something on that?—Yes, I propose to do that by means of three papers; the first to bring up Appendix 1 to date, and to extend it very considerably by bringing in, in addition to the Charitable Trusts Acts which deal exclusively with the Charity Commission, Acts which incidentally give us special powers; and then, next, instead of supplementing Appendix 2, which I think would be difficult to do and rather confusing, I propose to put in two papers, one, an index of the principal topics dealt with in our Reports for the 10 years in question; and, secondly, extracts from those Reports dealing with the most important of those principal subjects.

236. Have you anything that you could hand in now and which any honourable member of the Committee could look at during our proceedings?—I have some of those papers here.

Chairman—continued.

237. Perhaps you will just lay it on the table?—That (*producing a paper*) is an analysis of the Acts (*handing in the same*); it is only done in rough for the printer, in fact. These (*handing in other papers*) are the extracts of important subjects in the last 10 years' Reports; and here (*handing in another paper*) is the short index of the principal subjects dealt with in those Reports, which goes further than those extracts.

238. Then Mr. Richmond when he follows you will bring up that new Return of Schemes under Section 30 of the Endowed Schools Act?—Yes, that will be ready, no doubt; that is in an advanced stage now, but not quite ready.

239. Then Mr. Collings, who is not here to-day, suggested a question which perhaps you can answer; have you any further information with respect to the total number of Charities throughout the kingdom than that given in the Digest of 1876?—Upon that I had better refer to the last Report, the 41st Report, which is in the hands of the Committee, paragraph 14: "We have recently had occasion to estimate that the number of Charities subject to our jurisdiction under these Acts" (that is the Charitable Trusts Acts and certain other recent Acts of Parliament), "or some of them, exceeded 60,000; and that the number of new Charities annually created by deed or will, and subject wholly or partially to that jurisdiction, averages not less than 500."

240. You cannot distinguish those above 50*l.* and under 50*l.*?—As to that, I cannot do more than I did in 1884; but there was an attempt made to distinguish then which I will refer to if I may. The answer to question 185 of the evidence of 1884 is the passage which I think Mr. Collings was referring to when he spoke to me. The Chairman says: "Of the 40,000 Charities you have referred to in the country" (I think there were more than 40,000 then) "I presume a very large proportion are under the value of 50*l.* a year?" and my answer is: "I have had the figures taken out from two Returns and it comes to about 90 per cent." That is 90 per cent. in number of the total Charities are under 50*l.* a year. Then Mr. Bryce, in Question 189, says: "Will you state not only the proportion in numbers, but the proportion in value of the Charities which have an income of less than 50*l.*

Chairman—continued.

50*l.* a year?" to which I answer: "On the best information I can get, I believe that the proportion in value which the Charities with incomes below 50*l.* a year bear to the total is about 15 per cent., about 85 per cent. of the total income being attributal to Charities above 50*l.* a year." I should say that those statements were based on two Returns which were only specimen Returns, but I do not think I could give—indeed I am sure I cannot give—better information now than that.

241. You have had no information before you since which makes you think that that figure should be in any way changed?—No; I have no reason to think so; in fact, the investigations I made for the purposes of the recent Local Government Act rather confirm it than otherwise.

242. With respect to Lost Charities, will you just refer us to the Act which gives you the power that you possess with regard to them?—The longest of the extracts which I have just put in from our recent Reports deals with that subject. There are three extracts, and those extracts lead up to, or show the history of, the Act which was brought in by Sir Walter Foster in 1891, which is intituled the Charitable Trusts (Recovery) Act, 1891. That Act was brought in in consequence of a representation made in one of our Reports that Charities were continually being lost throughout the country; and as you are asking the question, perhaps I had better read a paragraph from that Report—the 34th Report, page 11: "The increasing frequency with which our attention has of late been called to the difficulty of enforcing the payment of rent charges, or other fixed payments charged on land, when they form the endowment, whether wholly or partially, of any but a largely-endowed Charity, induces us to renew the suggestion, made more than once in our previous Reports, of the urgent need for the provision of some simple and inexpensive form of procedure such as has been from time to time proposed in the various Bills for the amendment of the Charitable Trusts Acts, introduced of late into Parliament by successive Governments, by which the rights of Charities, in cases of this description, may be summarily asserted, and the further waste and abstraction of property dedicated to a charitable, and therefore a public use, may be prevented."

243. At all events that Act contains all the powers that you have on the subject?—That contains all the powers that we have directly. We have, and we always had, the power of sending any case to the Attorney General; but that involves long and costly procedure. This Act was intended to provide a summary mode of dealing with those cases.

Mr. *Donald Crawford.*

244. In answer to the Chairman at the last meeting, in reply to Questions 69 and 70, you said that you thought that the functions of the Charity Commissioners might be described as of two kinds, judicial and administrative; and then you explained to what extent they were judicial, and you mentioned that the difficulty of drawing a strict line was very great. I suppose you would assent to this: that with reference to the leading topic of our reference, "whether it is desirable to take measures to bring the action of the Charity Commissioners more directly under the control of Parliament," it is important to ascertain as fully as possible to what extent and in what sense your functions are judicial?—Certainly.

Mr. *Donald Crawford*—continued.

245. Because if you are looked upon as a court of law, that would be an obstacle to your being brought into closer connection with Parliament?—Yes.

246. I understand that in the exercise of your judicial powers you are the successors of the Court of Chancery?—Yes.

247. And the jurisdiction of the Court of Chancery with regard to Charities is set out in the memorandum which is before us. It says at paragraph 6: "The sole object recognised as that to which special regard for Charities points is the promotion, in the words of the earliest statute on this subject 'of the charitable intent of the givers and founders of Charities.' It has consequently assumed, with that object, the double aspect of the protection of property of Charities and control over the persons administering that property." Consequently the function of the Court of Chancery was the protection and the control of Charities?—Yes, that formed part of the functions of the Court of Chancery; not the whole, I should say.

248. What else would they be?—The power of adapting the administration of Charities to altered circumstances.

249. Perhaps the answer which you gave to the Committee of 1884 would be a complete statement of your views. It is at Question 12. The question is: "For what purposes were those powers" (that is of the Court of Chancery) "generally exercised? (*A.*) They were exercised either to protect the property of Charities or to provide means of applying the income of Charities when the particular mode in which the founders of the Charities had indicated their desire to apply them had failed, either from change in the circumstances of the objects of the Charities, or of the locality in which it was to be administered, or of the property of the Charity, or of the habits of the times"?—Yes.

250. I suppose that the jurisdiction may be very sharply distinguished from the ordinary functions of the Court of Chancery; is not that so?—Yes; those functions are not those of an ordinary Court of Common Law, certainly.

251. In dealing with this matter the Court of Chancery was the organ of the State to protect and control the Charities?—Yes. I believe that the historical view of it is that the Chancellor, who, of course, represented the Court of Chancery, or became the Court of Chancery, acted in these cases as the representative of the Crown as *parens patriæ*. In the same way as the Crown extended protection to lunatics and infants, so it extended protection to Charities—all three of them being supposed not to be very well able to take care of themselves.

252. Should I be right in saying one could imagine that there might be a system of jurisprudence in a civilised country, a complete system of Courts of Justice where they had no jurisdic-

Mr. *Donald Crawford*—continued.

tion of that kind?—I suppose there might be. I am not familiar with the jurisdictions of other countries; I imagine that that is so. This is rather a special sort of jurisdiction here. If I am asked about foreign countries, I believe, in fact I know, that in Italy they are making attempts to establish something like the jurisdiction that we have here over Charities; because I have been frequently applied to by members of the Italian Legislature on the subject.

253. That would rather point to the fact that this jurisdiction does not exist there as yet?—Yes, it would.

254. Then there is another answer which you gave which I think illustrates this point, at Question 32 of the evidence that you gave at the last sitting. It is a quotation from the memorandum. I might have referred you directly to the memorandum, but you have it here: "The powers thus vested in the Charity Commissioners are essentially remedial and protective. They are designed to effect two objects, and two objects only (*a*) to supplement the means provided by founders for giving effect to their intentions, where those means are inadequate to give full effect to the purpose of the foundations; (*b*) to protect the property of Charities against waste and loss, and so to preserve it for the purposes to which it has been dedicated by the founders?"—Yes.

255. Both in the powers that are conferred upon you by the Act and also in the way that you have exercised them, has there not been a pretty sharp distinction drawn between protective and remedial powers of that kind, and strictly legal powers?—I think I can hardly say that in our practice there has been any distinction drawn. We have been carrying out the Acts generally as far as we could, and I do not think we have been sensible of any distinction, though perhaps if one could step back to take a more distant view, one might see it.

256. If you would refer for a moment to Question 158 of the Evidence of 1884, at the end of the answer to that question, you refer to one of the sections of the Act of 1860, Section 5. You say: "Then comes a section (5) which administers a caution to the Board: 'the said Board also shall not exercise the jurisdiction hereby vested in them in any case which, by reason of its contentious character, or of any special questions of law or of fact which it may involve, or for other reasons, they may consider more fit to be adjudicated on by any of the Judicial Courts'"?—Yes.

257. That rather discriminates, I think, between your functions and strictly legal functions; is not that so?—I do not think we have read it in that way; we have read it as rather involving a question of degree than of kind. That is one of several sections occurring throughout the Acts which limit our jurisdiction. We are prohibited, as would of course be the case, from dealing with any questions of title or with any questions involving a claim adverse to a Charity. Our powers are limited to domestic questions, questions internal to a Charity; and therefore we are warned off the general ground of judicial work in deciding questions between two parties, one being a Charity and the other a stranger t the Charity.

Mr. *Donald Crawford*—continued.

258. There are some other of your answers which I think illustrate that; if you go down to Question 163 in the Evidence of 1884, at the end you say: "If we had any real doubt as to a question of law we should not proceed; we have always acted upon the view that we are not a judicial tribunal to decide questions of general law"?—Questions of general law; I should emphasise the word "general."

259. Then you would emphasise, I suppose, another word at No. 166. The question there put is: "I mean where there is any prospect of legal contention. Are not your hands practically tied where there is a prospect of legal contention?" And your answer is: "They are, I think, where there is a question of pure law."

260. Do you wish to modify that in any way?—Yes, I think I should, because I think we have to decide a great many questions which would come under that designation. I have a case here which would illustrate what I mean, and would show that the questions that we have to decide are really questions of construction, and therefore I suppose of pure law. Under the Mortmain Act of 1888, the Consolidation Act, there are provisions which exempt gifts of lands for certain purposes, for elementary schools and for museums and for other public beneficial purposes, from the stringent provisions of the Mortmain Act, which require deeds conveying land for charitable purposes to fulfil certain conditions; but one condition of the exemption is that these deeds, if they are to be exempted, should be enrolled in our books. That throws upon us the duty, every time a deed is presented for enrolment, of considering all the provisions of the exempting sections, and of seeing whether the deed is entitled to the exemption which is sought. I just mention that as an illustration of the questions of construction. We have sometimes very difficult questions under that particular Act, and there is no appeal from us, unfortunately, in that respect, and we cannot give the go-by to the matter by saying to those who come in a doubtful case to bring a deed to be enrolled, "We are not quite clear whether you are entitled to an exemption; you had better get it enrolled in the regular way; because if the grantor were to die within 12 months, in the case of a deed which we had not decided to be within the exemption, the whole gift would be invalid."

Chairman.

261. May I ask, is it circumstances that have arisen since 1884 that lead you to modify your answers of 1884?—No, I think I could not say that; I think it is general considerations. My attention is, of course, more closely directed to this particular point now than it was then. That Committee of 1884 did not pursue that point very closely.

Mr. *Donald Crawford.*

262. As bearing on the suggestion I have made that those functions of the Court of Chancery were not quite the same as the proper functions of every High Court of Justice, may I ask you this: Is it not the case that it is found that the Court of Chancery was not successful in

Mr. *Donald Crawford*—continued.

in performing that duty?—Yes, I think it was not successful. The procedure involved great expense and great delay, and there was a considerable absence of uniformity, I think, in the decisions.

263. And the origin of the Committee which sat from 1818 to 1835, and the origin of the inquiry which led to your appointment, was that the work was not properly done by the Court of Chancery?—There is no doubt it was so. If I may supplement that answer, I think the evidence of Mr. Lowe, which is to be found on the last page but one of the Memorandum, explains the reasons of the transfer from the Court. He says, "I am of opinion that not only is the Charity Commission a very useful machine, as being cheaper than the Court of Chancery, and being very well adapted therefore to deal with small matters; but I think it a very superior machine to the Court of Chancery for the purpose of administrative changes in charities, and for these reasons: in the first instance, it costs nothing; in the next place, it is perfectly easy of access to everybody; it is not restricted to any formal evidence; anybody may inform it in any way he pleases; it has the means through its inspectors of informing itself much better of the local feeling and the circumstances than a court of justice tied down by very strict rules could possibly have; and by means of the notice it gives, and the notoriety it ensures for all its proceedings, I believe, though it is a tribunal that does not have formal hearings of both parties, it secures all parties and all opinions being heard better than any court of justice can possibly do." That, of course, shows that we are not strictly a court of justice.

264. Yes; and I see that Mr. Lowe, in the third line from the bottom of the page, says, "The Charity Commissioners being a body administrative and ancillary"?—"And, therefore, more flexible."

265. When he says, "administrative and ancillary," I suppose that is rather distinguishing it from a court of justice?—Yes; I have always thought that that is the best description of our work, from the point of view of your questions, that I know of. Mr. Lowe is the only person that I have known of, until within the law few years, who, not being engaged in the ordinary work of the Charity Commission, had an opportunity of acquainting himself from outside with its work. As Vice President he did frequently attend the meetings of the Board.

Chairman.

266. There is no date stated when he gave the evidence?—It was given in 1865.

Mr. *Donald Crawford.*

267. At present there is a limited appeal, or appeal in certain cases, to the Court of Chancery?—Yes, there is.

268. Might it not be said that where it is necessary to give an appeal from you to a court of justice, in those cases, at all events, it would not be suitable to put you under Parliament, because you are already controlled by a court of justice; that might be said, might it not?—Yes, I think a distinction may be drawn on those lines. I have thought so myself.

269. I would like to examine that for a little while. The appeals, I think, are only given in two cases; is not that so?—The cases in which appeals are given are to be found in the second section of the Act of 1860, because the only appeal by the Charitable Trusts Acts from our orders is given in respect of orders made under that provision; and that provision which I read last time, I think (so I will not read it again at length unless I am asked to do so), empowers us to make orders "for the appointment or removal of trustees of any charity, or for the removal of any schoolmaster or mistress, or other officer thereof;" that is one class; "or for or relating to the assurance, transfer, payment, or vesting any real or personal estate belonging thereto, or entitling the official trustees of charitable funds, or any other trustees, to call for a transfer," and so on; that is the second; that is the vesting of property; and the third is the largest class: "or for the establishment of any scheme for the administration of any such charity." Appointing trustees, vesting the property, and establishing schemes are the three subjects of orders which are appealable to the Court of Chancery.

270. Now, in the establishment of schemes, you very frequently, I suppose, have to consider how far you will give effect to the doctrine of *cy-près*?—That we have to consider every time in making a scheme.

271. And in answer to the 70th question in your examination on the last day you say, "We have, in the exercise of that power of making *cy-près* schemes, and in the exercise of almost all our functions, continually to construe deeds and Acts of Parliament; and that, of course, is a judicial function, perhaps one of the most distinctly judicial functions that we have." Accordingly, I suppose, you would say that the making of schemes and the consideration of the doctrine of *cy-près* which it involves, is one of your most judicial functions?—I think so.

272. And that is also one of the subjects of appeal?—Yes.

273. And if anyone were objecting to Parliamentary control, either altogether or in any particular portion of your work, that would be one of the strongest points against it, I presume?—Yes; on the lines suggested by a question you put just now, that being subject to one control, there would be a difficulty in making us subject to another.

274. Now I should like to get some light upon that, by comparing it with the operation of the Endowed Schools Acts, which are also under your administration; there you also have to make schemes, have you not?—The distinction between the two jurisdictions is that in the case of the endowed schools we do not make schemes; we only frame schemes, and submit them for approval to the Education Department, who, in turn, procure their approval at length by Her Majesty in Council. We compile those endowed school schemes as we do the others, but we do not

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not establish them by our own acts, as we do the charitable trust schemes.

275. But you frame them?—We frame them.

276. In framing the endowed school schemes you exercise even a wider discretion, though a very similar one, than in the case of the charitable trust schemes, because you are not bound by the doctrine of *cy-près*?—We are not bound by the doctrine of *cy-près*, and to that extent the discretion is wider; but then, of course, the objects for which we can make schemes are limited to educational purposes; so that the action is narrower in that respect.

277. The subject-matter is narrower, but the discretion is wider?—Yes; I think that would be a fair way to put it.

278. In those educational schemes there is no appeal to a court of justice?—Yes, there is an appeal to the Judicial Committee of the Privy Council. There is an appeal going on at this moment there. I have just come from the Judicial Committee. But that is a restricted appeal; that is an appeal restricted to certain points. Perhaps you would not wish me to go at length into that; that will be before the Committee, probably, in Mr. Richmond's evidence.

279. But those schemes have to be approved by the Education Department, and then laid before Parliament if they are objected to; is not that so?—The only necessary processes of a scheme under the Endowed Schools Acts are: framing by us, submission to the Education Department, and approval by Her Majesty in Council; but after submission to the Education Department, the Education Department are bound to issue notices of their intention to have the scheme approved by Her Majesty in Council, and during the period for which those notices run, certain classes of persons specified in the Act may either, on the one hand, ask for a reference of the case on legal grounds to the Judicial Committee, or may ask to have the scheme laid before Parliament.

280. The Education Department, of course, is a Parliamentary Department?—Yes.

281. And then the schemes under certain circumstances require to be laid before Parliament. Should I not be right in saying that so far as that part of your work is concerned, the control, so far as it goes, is Parliamentary control now?—Yes, those schemes are certainly subject to a Parliamentary control in perhaps two ways: all schemes are subject to a control by the Education Department, who may reject any of them; and then they may come actually before Parliament for discussion.

282. Therefore, whether it were done in exactly the same way or not, does not that go to show that there is no insuperable objection to the charity part of your work being dealt with by way of Parliamentary control, instead of by direct appeal to a court of law?—Yes; the procedure there, I suppose, might be made applicable to other cases. A practical objection, I should think, would be that so many of the cases under the Charitable Trusts Acts are so very small that it might be scarcely worth while to deal with them in that way; that is, of course, only a question of degree.

283. That might be got over, might it not, by making your decision final in those cases?—As was done in the Endowed Schools Acts. In cases of endowments of under 100*l.* a year there is no appeal to the Judicial Committee.

284. Supposing that a certain number of schemes (this is merely a matter of detail) were to come before Parliament in that way, as some of the endowed school schemes do; you were asked the last time with reference to a proposal for a Standing Committee of Parliament, and I think you said that that might possibly lead to great delay?—Yes, I think I said so.

285. But I want to ask how far it would be so; at present, I presume, it is only in a very small proportion of the schemes that come before Parliament, even when objections are made, that those objections are successful; is not that so?—They are not often successful.

286. If there were a Standing Committee, would it not rather tend to uniformity of procedure; would it not be probable, in the first place, that this Standing Committee would gradually come to be guided by certain principles?—Yes.

287. And, secondly, would it not be probable that if the Standing Committee passed a scheme it would be hopeless in most cases to raise a discussion upon it before the House?—I think, as a matter of distinction between bringing a scheme before Parliament in the way in which schemes are brought now, and bringing it before a Standing Committee, the latter would be far preferable.

288. If it came under Parliamentary control it would, of course, tend to sever your connection more completely with the Court of Chancery, as is it not the case that in consequence of the great experience that your Board have now acquired, and the small number of cases that ever go before the Court of Chancery, the efficiency of the Court of Chancery is less than it was before in dealing with such matters?—I should like to speak with all reserve as to the efficiency of the Court of Chancery, but this, of course, one cannot help being struck with; that since the establishment of the Charity Commission the number of charity cases that goes before the Court has very much decreased, and that a charity case now is a very rare occurrence before the Court of Chancery; and without saying anything about the Chancery Division, I may say, from my knowledge of the profession, that the number of advocates who are acquainted with charity law is very small indeed.

289. I think in the Evidence of 1884, at Question 985, you refer to that point. In the last sentence of your answer you say, "As a matter of fact, if I may venture to say so, the Chancery Division has become much less accustomed to deal with these questions than it was formerly, in consequence of the large transfer of business to our Office"?—Yes.

290. I suppose that, at least, is not less true now than it was 10 years ago?—Certainly not less true.

291. And, therefore, that is a consideration, whatever length it may go, on the question whether the control of your proceedings should remain in the Court of Chancery, or rather be directed towards Parliament?—I should not say that.

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that. I should not say that no control of our proceedings is necessary. Parliament, of course, is not a legal tribunal; where legal questions arise, I suppose you must have a legal court of appeal; but, as a matter of fact, as indicated in your question just now, those questions are rarely raised. Might I just add with reference to the diversion of business from the Court of Chancery to our Board, that on the fourth page of the 41st Report, and on the corresponding page of every previous report, is found a table showing the extent to which, since the passing of the Act, this judicial work of framing schemes and appointing trustees has been diverted from the Court of Equity.

292. It has dwindled to a very minute point?—It has.

293. I am not sure that I made my last question clear; but considering that at present your Charity schemes may be appealed to the Court of Chancery; that, on the other hand, your review of the Endowed School schemes is more of the nature of a Parliamentary review; does not the fact that the business of the Court of Chancery in this respect has dwindled so low rather point to this: that if something similar to the Parliamentary review of Endowed School schemes were adopted for the Charity business it might be at least equally satisfactory?—The Endowed School schemes have a double appeal; there is a legal appeal there; and therefore one sees that the necessity for legal appeal is still maintained there; but there is no doubt that if our Charitable Trust schemes were to go before Parliament they would have greater weight.

294. But it would be necessary, I presume, for really legal questions that a legal appeal of some kind should be reserved?—Yes, I think it would not be well to abandon a legal appeal altogether. The legal appeal comes to very little nowadays.

295. Assuming for the moment (without asking you to express any opinion about it) that it would be desirable to have some further Parliamentary control, have you considered of what nature it could best be?—Parliamentary control over the whole work, do you mean?

296. Yes; I will put the two things together: Parliamentary representation and Parliamentary control, because they are correlative; is not that so?—If you have more full Parliamentary representation, you will have more power in Parliament, but you will have to submit to more direct Parliamentary control. On the other hand, if you were put under Parliamentary control, you would be quite sure to get some representation in Parliament in some shape.

297. And in the evidence of 1884, I think both you and Sir Seymour Fitzgerald were of opinion (you naturally approached it on the side of representation) that you should have more representation?—Yes; and in regard to that I may say that that evidence was given in 1884, and I consider that a very great step has been made towards our having more direct Parliamentary representation (dropping out the control for a moment), by the alteration which has been made in the position of the Parliamentary Commissioner.

298. Perhaps I may ask at this stage whether

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you think it will completely fill the want which you were sensible of in 1884?—It does not, of course, give us the support of the Government of the day; it is not intended to do that, and it does not do it; it does not pretend to do so; if the support of the Government of the day is of use to us, it does not give us that; but that we are in much closer touch with Parliament, I think, cannot be denied.

299. And would you rather reserve your opinion about that, or go the length of saying that you think it important that you should have the support of the Government of the day for financial reasons and others?—It would facilitate our work, no doubt.

300. I do not know whether you have considered the details of the mode in which it might be accomplished. I might put it to you in this way: in your last examination some reference was made to the old Poor Law Commission, who were a body at first somewhat similar to yours?—Yes.

301. And then they expanded first into the Poor Law Board and ultimately into the Local Government Board; which is, of course, a Department of State, and it has a Minister of State who gives his whole time to it; and, on the other hand, he is absolutely supreme, there is no other Board to check him. Then there are other departments which have gone through a similar change, such as the Education Department and the Board of Trade. In each case the Minister is now solely responsible and gives his whole time to the business, and the other people in the office are both in name and in fact subordinate officers. Then, on the other hand, there is a different kind of Board, such as the Commissioners of Woods and Forests, the Board of Customs, and the Board of Inland Revenue; in each of these cases they are under the Treasury, but they have a separate office. The Commissioners dispatch business in their own name, they are not subordinate officers at all, and I suppose their policy is very rarely interfered with except on very large grounds by the Treasury. On the other hand, they are under the control of the Treasury and the Treasury backs them up in Parliament in every way. Now, taking these two classes of Departments, have you considered whether either of these, or which of these, would suit your case if a change were made?—I think the latter class of Board would suit our case best.

302. Probably, although your business is so widely extended, you might not think that it would be thought generally expedient to erect it into a Department of State with a Minister at the head of it?—That is a question I have hardly considered, but as you have put it to me, I may say that I should not have thought our business was sufficient to warrant the creation of a new political officer.

303. And such a change would also involve almost the abolition of the Board in its present state?—Yes, it would.

304. Assuming that the second category was more suitable for you, have you considered which department you ought to be attached to?—There is very great difficulty in that, because part of our work deals with educational trusts, and of course one sees that part of the work in fact already

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already is to a certain extent subordinate to the Education Department, or to the head of the Education Department rather, and I think there would be a very great difficulty indeed in separating our work and putting some of it under one political chief and some of it under another. I should be disposed to deprecate that as strongly as I could; I think the difficulty of drawing the line would be almost insuperable. I am not making that objection on theoretical grounds only; because, when the Endowed Schools Commission was working the Endowed Schools Acts as a separate Commission, there was a Charity Commission side by side with it exercising a jurisdiction up to a certain point over the same educational trusts with which the Endowed Schools Commission were dealing, and exercising general jurisdiction over all charitable trusts, and the confusion was very serious. The concurrent jurisdiction led to delay, and to worse than delay—to error.

305. Do you think it would be possible (of course, I do not think any of us would like to commit ourselves much on this point) to put the whole business either under the Education Department or under the Home Office?—So far as I have thought of the question, it seems to me that some day or other there would be a Minister of Education, not the Education Department, who might perhaps (I believe it is done in some countries, but I forget which) be Minister of Education and Charities. I think education and charities would go well together. I see a difficulty in the Home Office, because they would have no touch with education, and I think that the Charities must go where education goes. If there is to be a political control, that control must be the same as the control of education.

306. The Committee of 1887 made the recommendation with regard to the Endowed Schools Department that in the first place there should be a Minister of Education, and then they should be under him?—Yes.

307. But I suppose practically we may say that there is a Minister of Education now in the Vice President of the Council?—The Education Department of course is primarily constituted for dealing with elementary education; its contact with secondary education is accidental and partial only, but the Education Department is much more concerned with education than any other Department, of course.

308. I quite appreciate that, but then the titular head of the Department is the President of the Council?—Yes.

309. The powers of the Council are, of course, exceedingly wide; I do not mean the statutory powers: but the Privy Council may put a finger in almost any pie; and therefore if you chose to make the Lord President the head, might not that do?—Yes, that is very much what I think that there should be, a great officer of state who should have all education under him; and that is, no doubt, what we are coming to.

310. I want to ask you one or two questions upon the second part of our reference as to giving "the Commission more effectual means of dealing with the business which will come before it." Now in 1884 the result of your evidence was that there were certain specified things that you thought ought to be done, and I do not think many or any of them have been done. For instance, there was the removal of the 50*l.* limit; are you still of opinion that that ought to be carried out?—Yes, I see no reason on abstract grounds for retaining it.

311. And you gave many instances in 1884 which showed that the existence of the limit had been a serious impediment to your procedure?—Yes, I think that was shown to the satisfaction of the Committee.

312. Then the second point was the audit; that has not yet been carried out?—No, there has been no alteration of the law in that respect. I do not think I suggested that we should be entrusted with power to institute a general audit, but we should have powers of special audit wherever we thought it desirable; but nothing has been done in that respect.

313. That is still the view you maintain, that you ought to have the power of an audit?—There ought to be power somewhere, whether with us or elsewhere, to deal with the accounts of Charity Trustees by way of surcharge and disallowance.

314. Then there was a point about the appointment of trustees, was there not?—I think that is involved in the 50*l.* limit; the 50*l.* limit extends to the appointment of trustees.

315. Some of the honourable Members who examined you in 1884 divided the claims of the Commission into four or five heads, but are there any special points besides these two that you would desire to draw the attention of the Committee to as requiring legislation?—I think only the point that I mentioned in my evidence the other day as to the Charities which are regulated by Act of Parliament. I think I stated that fully the other day.

Mr. *Oldroyd.*

316. I think I gathered from the answers which you gave last time the Committee met, that you do not exercise a sort of roving commission to bring within your jurisdiction all the Charities of the country, but you merely deal with those which are brought before you?—Yes, in the largest sense of the word that would be so; but there are many ways of Charities being brought before us. Charities are brought before us not merely by application by those who are responsible for their administration, but are brought before us by way of complaint by persons outside the Charity; and are also brought before us by our inspection of the returns made to us by the trustees, which sometimes disclose that there are defects in administration. I think it is true, speaking generally, that we have no time and no staff to exercise the roving jurisdiction which you mention. When the Commission was first established, that was the case: but the necessary business, the business arising out of applications in the widest sense of the word, soon grew to such an extent that it became impossible to do more than attend to that.

317. In

Mr. *Oldroyd*—continued.

317. In view of the possibility of further Parliamentary control being exercised over the Commissioners, do not you think it would be advisable that an Act should be passed compelling all trustees of all charities to report themselves to the Commissson, so that all the charities might come within your cognisance?—They are bound to render accounts. The weak part of the system is not the want of power to get accounts, but the want of staff to examine all the many thousand accounts which come before us. We have habitually and repeatedly warned Parliament that we do not consider that it is our duty; in fact, Parliament has not provided us with the means of doing it, to examine regularly all the accounts before us. That could be done, no doubt. It is done to a considerable extent, and a great deal of the work is based upon it; but it is not done systematically.

318. But do you consider that, so far as accounts are concerned, you have, if you had time to examine them, all the charities of the country brought into your office?—No, because every day almost, or every week, we discover charities that we did not know of before. As I said in the evidence of 1884, you must first catch your charity before you can inquire into it; and there are a good many charities in the country, I feel certain, that we do not know of.

319. That was really the gist of my question, whether you think it desirable that compulsion should be brought upon the trustees of the respective charities all over the country to report themselves to you?—Yes; I think one of the best things to do would be to say that no new charity should be deemed to be validly created until it had been reported to us. That would stop a great deal of the mischief.

320. But that does not apply to the old charities?—That does not apply to the old charities; the trustees of old charities who do not report themselves to us might be put in the position of forfeiting the property of the charity to some other use, or something of that sort. It would be rather difficult to devise means of penalising them. The older the charity the more likely we are to hear of it; and we have within the last 15 or 20 years started a system which enables us to get hold to a very large extent of new charities, by means of an arrangement with the authorities at Somerset House of the Inland Revenue; an arrangement by which we get information of wills which appear to create charities.

321. Could you give the Committee any idea as to the requisite enlargement of your staff for dealing with all these charities. You admit that certain accounts that are rendered to you are now lying in your pigeon-holes unexamined, on account of the want of an adequate staff?—Before I answer that, perhaps I might just say this, that we have always assumed, and informed Parliament repeatedly, that our Acts do not require us to examine them; no doubt it is most desirable that they should be examined; and now I can answer the question by saying that the enlargement of the staff would not be very costly, because, as I said in my last evidence, I think our organisation is such as to suffice, with an extension of the inferior branches, for a great deal more work than we do now.

Mr. *Oldroyd*—continued.

322. You think it would not need an increase in the number of superior officers?—I think not; I think this particular Department to which your question refers is now thoroughly well organised at the top, and by the addition of perhaps four or five or six second division clerks we could do all that is required. That involves, of course, more room as well as more money.

323. Have you any opinion as to the advisability of making some charge upon the locality to liquidate the expense connected with these investigations by your Commission?—It is a question that I have had occasion to consider very often. I have been often asked to consider it by the Treasury.

324. What is your opinion on that?—I have never been able to see any reason why charities should not contribute to the cost of the work done by our Commission. Our position comes to this practically: that the lawyers' bills of charities are paid out of the Consolidated Fund. But perhaps I may add that the honourable Member is no doubt well aware that it is considered by those who have attempted to do it to be practically impossible to tax charities for the support of the Charity Commission. I remember hearing Mr. Goschen, who was Chancellor of the Exchequer at the time, say that he did not believe there were four Members of the House, and three of them were himself and two Secretaries of the Treasury, who would vote for such a proposal. He was urging it at the time.

325. With regard to the question of the formation of new schemes by your Commission, have you since 1884 enlarged the practice of appointing representative trustees; by representative trustees, I mean appointing trustees from local bodies?—Yes; I think it will be found when the Return which I am going to put in is before the Committee, that we have gradually increased the proportion of representative trustees, as time has gone on, in consequence of the Report of the Committee of 1884. But I should like just to add this: that there are very great difficulties in introducing the representative element into bodies of trustees; and the passage which I have put in to-day (which will be circulated I suppose for the use of the Committee) from our 40th Report, states some of those difficulties. Perhaps I might just read a short passage. We say this in paragraph 35: "This" (the appointment of representative trustees) "has frequently been done in the face of considerable opposition offered by the existing trustees and their supporters, and it has appeared to us, in view of the fact that our power to effect any change whatever in this direction is largely dependent upon the initiative of those trustees, to be undesirable and impolitic to apply new principles to the constitution of bodies of trustees so largely and abruptly as to deter trustees from recourse to our jurisdiction."

326. But does that power of the trustees to interfere with your proposed plans in the new schemes apply to the charities that are above 50*l.*?—Yes.

327. Does that apply to them only?—Yes, it applies to them only. We can get applications

Mr. *Oldroyd*—continued.

in the case of charities under 50*l.* from persons other than the trustees.

328. Can you give us any idea as to the general objections raised by trustees to representatives being appointed from public bodies?—I think it is generally the idea that things had better remain as they are.

329. Does it frequently arise from denominational prejudices?—Those considerations are urged sometimes.

330. Is it the fact that they are frequently urged?—I do not think very frequently in the case of the constitution of bodies of trustees for ordinary parochial charities.

331. Then your opinion, as a Commissioner, is that representative trustees are efficient, and perhaps a better guarantee of good faith and good management in the administration of the trust than the appointment of private individuals?—I think it is most important to have a substantial element of representative trustees in every body of trustees of charities applicable to general purposes; and I think the point to which our experience goes most directly is this: that the addition of a representative element to a body of trustees ensures publicity of proceedings.

332. And I suppose there is another advantage in the matter of perpetual succession?—Yes; it is more easy, no doubt, to secure perpetual succession where an official body appoints.

333. And does the fact that a public authority having a representation on the board of trustees brings to bear the public local opinion upon the management of the trust, act advantageously?—Yes, that is most important.

334. You say that since 1884, when your attention was called to the fact that these representative trustees were desirable, there has been a gradual increase in the number you have appointed in the new schemes?—Yes, I think that will be found to be the case.

335. May I ask why "gradual"?—Because, I think the opposition has gradually become less.

336. It is not from any increase, in your own opinions as Commissioners, of the desirability of such appointments, but it is because the opposition is less?—I think, perhaps, both motives have operated. We have had the recommendation of the Committee of 1884 before us; but, as we say in this extract, we have not thought it politic to introduce changes too abruptly.

337. Might I ask you, is it not your opinion that Parliamentary control, especially if it bore this direction, would be beneficial in overriding the judgment of the private trustees?—Yes, I think so.

338. I may put my point perhaps more clearly. What I mean is this: would it not be more satisfactory to you, and to your work generally, if Parliamentary control were instituted, so that you would have more distinct authority for the appointment of public trustees, representative trustees?—I think Parliamentary control not only would be, but has been, most useful in that respect. I consider that we are very immediately under the control of Parliament, especially in the matter to which your question relates. Many cases have been brought before Parliament as to the appointment of

Mr. *Oldroyd*—continued.

trustees, and no doubt our hands have been strengthened very much in dealing with bodies of trustees by representations made in Parliament.

339. Then the general tendency of Parliamentary interference, such as there has been, has been towards the increase of this class of representative trustees?—Yes.

340. I see that in 1884 considerable ground was covered with regard to objections raised by Nonconformists to your operations?—Yes, there were several objections raised.

341. And I see that in the Report the Committee exonerated you from any charge of that kind?—Yes, they did.

342. Fully and clearly, I think?—Yes, I think so.

343. But is it your opinion that a further increase of publicly-elected trustees, locally-elected trustees on these trusts, would tend to relieve the grievances that hitherto have been felt by Nonconformists?—Yes, I think so.

344. From the fact that the breeze of public opinion would be brought with a little more force into play?—Yes, I think so. I think we see that effect already.

345. With regard to the doctrine of *cy-près*, do you think that the precedents established by the Court of Chancery which you follow leave you sufficient freedom in the diversion of the trusts from their original purposes?—Yes, I think my opinion is the same now as it was in 1884, that the doctrine of *cy-près* as now understood is quite sufficient for present purposes. Its powers are by no means exhausted, and I think it will be quite time enough to ask for further powers when we have done all that can be done under the doctrine of *cy-près*. The limitation of our powers in applying the doctrine of *cy-près* is not the fault of the doctrine; it is because we cannot get persons to apply to us for a scheme which will give effect to the doctrine. But perhaps I may qualify that answer, and the answer I gave in 1884, in one respect. There is one point in which the doctrine of *cy-près* is not so broadly established as one might wish, and that is in the somewhat rare cases of gifts for poor relations of the founder. The Court of Chancery has spoken with rather an uncertain sound on that subject; and has not, we consider, authorised us, even after the lapse of 100 or 200 years, in dealing with those charities for general purposes.

346. Then you think that you would find it useful in the public interest if the doctrine in that respect, in respect to that particular class of charities, were widened?—I think so, and I am not without some hope that we may get the Court of Chancery to widen it if we get a good case to bring before it, and there is some prospect of our having such a case.

347. Can you give us some idea of the extent to which you would like the doctrine to be widened, in what respects?—I think I should be prepared to go as far as this. I should like to have it determined that a gift to poor relations is not a good charity. It really comes to a sort of perpetual entail (which a man cannot make in favour of his relations if he omits the word "poor") in favour of a class of the man's relations

Mr. *Oldroyd*—continued.

tions; and there has been an indication in some judgments of the Court of a desire to move in that direction; but unfortunately the last judgment of the Court of Appeal was rather in the other direction. I could refer the Committee to a passage upon this question in our 16th Report (for 1868), page 5.

348. In the case of a Charity of that kind, your scheme would be subjected to the Court of Appeal?—Yes.

349. That is to say, anyone who considered himself a poor relation of the founder of the Trust would have power to appeal to the Court?—Yes.

350. And such an appeal would not be at the cost of the applicant, but would be at the cost of the Trust?—Almost certainly at the cost of the Trust.

351. Now I would ask you whether in such a ca e it would not be better if Parliament were to take the place of the Court of Appeal; it is possible now, is it not?—Yes. There is a procedure in our first Act of 1853 for bringing schemes before Parliament, but as there was no means of getting political support for those schemes, the Charity Commissioners in their early days very soon dropped that practice, and we only adopt it now where the scheme is so insignificant that it can be passed without opposition; and I think in the last 20 years we have only had two cases of that sort. They have both, I think, been cases of Nonconformist Charities.

352. Have you any particular Charity in your mind at present of this class of Trust to poor relations?—Yes; I have in my mind a Charity of John Harrison for his next-of-kin. That Charity, as I think is known to the honourable Member, is administered in the West Riding of Yorkshire, and we understand (we only have partial information at present) from the Trustees of that Charity that its administration is attended with the greatest possible abuses.

Chairman.

353. Where is that administered?—It is administered at Dewsbury. It happens that the Trustees reside at Dewsbury; but it is a general Charity which might be administered in London or Newcastle.

Mr. *Oldroyd.*

354. Do you know the number of names that are on the list?—I am afraid I have not had time to refer. I know there is a very large number, and that the Trustees have the greatest difficulty in identifying these persons as relations of the founder, who has been dead 200 years or more, and we are waiting now for a full written statement from the Trustees of these abuses, with the view of seeing whether we should either run the risk of making a scheme disregarding the next-of-kin and so getting the case before the Court on their appeal, or whether we should try to bring a scheme before Parliament.

355. Then do you know that it is the fact that there are about 1,500 persons on the list of this Trust?—I believe, now the honourable Member reminds me of it, that is the number that was mentioned; it is in these papers.

Mr. *Oldroyd*—continued.

356. From your experience of Trusts of a similar character, do you surmise a strong probability of someone of these 1,500 beneficiaries objecting to a multiplication of the scheme?—I should think they would certainly object.

357. In the present state of the law it would be necessary to avoid the possibility of the trust being wasted in a legal process; and the only mode of doing that now is by an Act of Parliament?—By an Act of Parliament which our Act provides for being brought in and dealt with as a Public Act. That really is the only advantage which our Acts give. If Charities seek to get a Parliamentary Scheme of their own motion it must be dealt with as a Private Bill, and fees must be paid; but if this particular jurisdiction of ours is exercised it would cost nobody anything; otherwise the Bill must pass like any other Bill.

358. Then, in reply to the question put to you by the honourable Member on my left (Mr. Donald Crawford), I gather that you would prefer that in the case of the Charitable Trusts you should have larger powers of deviating from the objects of the Trusts in order to meet the best interests of the locality, of a kind similar to the larger powers given by the Endowed Schools Acts?—No; I think the doctrine of *cy-pres* is wide enough if we can get the means of applying it. We can do almost anything, I think, for the benefit of the locality, if we can only get a jurisdiction to apply the doctrine; I am speaking now of general cases, not of the poor relation cases.

359. Speaking of those Trusts which have specially denominational objects, is it the fact that you have ever, in remaking those schemes, altered their purposes?—Certainly not in opposition to the wishes of the parties. We have a difficult class of cases, sometimes, in which we have to determine what the word "Presbyterian" means. The honourable Member, perhaps, knows that the word "Presbyterian" does not mean now what it did 100 or 150 years ago. Those cases are generally, but not always, dealt with now without difficulty; but subject to that we do not divert Charities from one denomination to another.

360. In the case of very ancient Trusts, made at a time when the whole body of the community were practically adherents of the Church of England, is it not the fact that beneficiaries who are not now adherents of that Church are excluded from the benefits of the Charity?—I think those cases are very rare. We had a complete inquiry into Charities in the county of Denbigh not long ago, which I mentioned on my last evidence, and there were a good many suggestions that practices of that sort had prevailed; but I think it was not found that it was the case in more than one or two, perhaps three cases, in that county; and I take it that those cases are diminishing. I think they have been much more numerous than they are now; and probably that diminution is due to the fact that public opinion is brought much more directly to bear upon the administration of Charities than it was.

361. But in such cases as do exist of that

Mr. *Oldroyd*—continued.

kind, it is to be inferred, I suppose, that a change of religious opinion has to that extent (I do not say to a large or serious extent) debarred these individuals from enjoying the benefits of charity really intended for them?—Yes, there have been some few cases of Charities designed for the benefit of the poor of the whole of the parish, in which the scope of the Charity has been narrowed.

362. That is to say, some chance expression in the will of the founder referring to the Church of England, which at that time practically embraced the whole of the community, has really debarred those who dissent from the Church of England, and are no longer adherents of it, from the enjoyment of what was really intended for them?—Yes; it has in some cases, and if it has, it has been done in contravention of the law, because the Court of Chancery has, in not very remote times, declared that such expressions as that the Charity is to be distributed by the churchwardens, or is to be distributed at the door of the Church, are not to be construed as confining it to members of the Church of England.

363. I suppose with regard to that you expect a considerable re-arrangement of Trusts under the Local Government Act of 1894?—Certainly.

364. But in these cases which do occur admittedly, I suppose we must further infer that in those districts where Nonconformity has developed to a very large extent; perhaps I might say notoriously in Wales, the proportion of those who are thus debarred from the benefit of these Charities is greater. The more the prevalence of dissent, the greater the number of persons who are excluded from the benefit of the Trust?—Yes, if the practice existed in a particular parish, of course the more Noncomformists there were in the parish, the greater the evil would be.

365. With reference to the Parliamentary control, in place of the control of the Court of Chancery, do you think it would be preferable if some Minister were appointed with full authority over the Commissioners, do you think that would be an improvement upon the present procedure?—I think I would answer, as I answered a similar question, it would probably make our work go more smoothly.

366. Do you think it would interfere with the regularity of the decisions; I mean to say the decisions being on the same lines in different cases?—I think it might.

367. You think that the change of political opinions in the head of the department being connected with the Government of the day might more or less interfere with the regularity of the decisions in that way?—Yes; I think that is quite possible. That is a danger which has been anticipated by some of those who have considered the question, and I should think there was something in it.

368. But would not that be got over by the fact that the later decisions would be followed in dealing with cases; you do not anticipate, I suppose, that the decisions would fluctuate with the change of parties?—I suppose they would not fluctuate very much. I fancy that the practice of political offices, as a matter of fact, does not vary very much with the change of the Government; that the fact of there being a large permanent staff has its weight.

369. But would it not be the fact that if your Commission were put under such a scheme there would be more elasticity in its decisions than under the strict traditions of a Court of law; the field of freedom, the elasticity, would be enlarged?—Yes; I suppose it would.

370. And in that case (I think I was not quite clear about your answer to the question put before about such an institution having some Minister as head of the Commission, and responsible to Parliament for the acts of the Commission) would it not be possible to have both the present Charitable Trust Acts and the Endowed Schools Acts under the supervision of one Minister?—It would, no doubt, be possible, but as long as the law of Trusts continues to affect Charitable Trusts, I think you can scarcely escape from legal control in some way or other.

371. I think the other day, when you were examined in chief, you said that investments under the Charitable Trusts Acts were confined mainly to Consols or real property?—No, not now.

372. I asked a question on that point as to whether the stocks of the local authorities are accepted; you admit that the stocks of local municipal bodies are accepted?—They are accepted as investments. My object on that occasion was to show that we had very much widened the scope of our investments.

373. But you say that you do not range over the full number of the stocks authorised for investment under the Trustees Investment Act?—No, that is so; we limit our investments to those authorised by the rule of Court.

Chairman.

374. Your answer on that subject is fully given, No. 213?—Yes.

Mr. *Egerton Allen.*

375. I do not wish to go over the ground which has been covered generally as to the appointment of representative Trustees; but I do want to draw your attention and the attention of the Committee to this particular branch of it, the appointment of Trustees by Municipal Corporations. If you please, I will go through the recommendations in the old Report as to that point; in the Report of 1884, page 9 (No. 2), it says: "The Charity Commissioners, in framing a new scheme, as a rule, greatly enlarge the number of Trustees, and require that a considerable number of them shall be representative, *i.e.*, nominated, by some existing representative body, such as the Corporation, where the charity is within a municipal boundary"?—Yes.

376. Then in page xi., "In the administration of charitable funds the stimulus of private interest is absent, and the best available substitute for it is a direct and official responsibility to the inhabitants of the district"?—Yes; there is another

Mr. *Egerton Allen*—continued.

another reference to the Corporation lower down, the last paragraph but two.

377. The paragraph you draw my attention to is the one with regard to notice of a scheme being given to a corporation?—Yes.

378. In the Report of the Committee of 1887 on the Endowed Schools Acts, page viii, at the end of paragraph 13, there are these words: "With an efficient system of local government the concurrence of a local representative body would form a better security for the general interests of the locality than is afforded by the consent of trustees"?—Yes.

379. Then, on page ix of the Report of 1887, the end of paragraph 20, and on pages xii and xiii there are in the summary the paragraphs 6, 12, and 14, and it is upon those extracts that I wish to ask this question, whether you are in favour of the principle laid down in those paragraphs, that municipal corporations should nominate trustees for charities distributed in the boroughs?—Yes; I think we invariably when we make schemes for charities distributed in boroughs give the town council the appointment of a certain number of representative.

380. Then in the 40th Report of the Charity Commission you refer to the matter in paragraph 33?—I have that before me.

381. And I wish to ask whether you have found many cases in which you have been able to give effect to that principle; have you framed many schemes in which corporations have been allowed to nominate to charities in the boroughs?—Yes, I should think a good number of schemes during the last 10 years.

Chairman.

382. I suppose that will be shown, of course, in those six counties for which we have a Return?—It will be shown, of course, in the Return in full.

Mr. *Egerton Allen.*

383. Have you found a difficulty arising with reference to getting the consent of the present trustees to allowing nominees of corporations to be added to their body?—Yes; in some cases we have had a good deal of difficulty in persuading the trustees of charities within a borough to make the application for a scheme, which scheme would involve the introduction of trustees nominated by the town council.

384. Do you think that further legislation would be advisable in order to give municipal bodies power to nominate trustees, even should the present trustees be unwilling?—I think the removal of the 50*l.* limit, which has been spoken of, would answer all purposes.

385. I want now to refer to another matter, the question of funds kept for apprenticeing; have you found in many cases that funds left for apprenticing have been converted to the support of old folks?—No, I do not think we have found that.

386. Has there not been a certain alteration in the custom of apprenticing which has rendered it difficult to apply funds left for apprenticing to that specific purpose?—Yes, we find that to be the case frequently; and that difficulty is very

Mr. *Egerton Allen*—continued.

well explained in the judgment of Sir George Jessel in the case of the Campden Charities, to which I referred the other day.

387. In cases where funds have been left for the purpose of apprenticing, it is within the *cy-pres* principle that they should be applied for education, is it not, according to that judgment?—Yes; Sir George Jessel, in that judgment, laid that down with some reserve, because, in that scheme he directed that a certain portion of the apprenticeship fund, a small portion, should still be applied in apprenticeships; but, subject to that, he sanctioned the diversion of a very large apprenticeship fund to educational purposes. That was in the parish of Kensington.

388. And the Charity Commission have followed that in allowing, in other later instances, apprenticeship funds to be applied to educational purposes?—We have followed that judgment in sanctioning the application to educational purposes.

389. Without the consent of the trustees?—No; we can do nothing in the way of altering the application of funds, except by way of a scheme, and a scheme can only be made upon certain applications; and the application in the case of a charity over 50*l.* must be by a majority of the trustees.

390. But, under Section 30 of the Endowed Schools Act, 1869, the funds left for apprenticing and so forth, and for other purposes, can be applied to educational purposes on the specific application of the trustees?—Yes; I thought your first question referred to the Charitable Trusts Acts. Under the Endowed Schools Acts the apprenticeship fund can be dealt with irrespective of the doctrine of *cy-pres*, so to speak; but, even then only with the consent of the trustees; so that you do not get very much further, even under the Endowed Schools Acts.

391. I am trying to draw a distinction (if it is a distinction) that funds left for certain purposes, other than apprenticeship, cannot be applied to educational purposes under the same *cy-pres* doctrine, under which funds left for apprenticeship purposes can be applied to educational purposes?—It is more easy so to apply apprenticeship funds to educational purposes than to apply funds which have not, as apprenticeship funds appear to have, a sort of *quasi*-educational flavour.

392. Did the Commissioners sanction the appropriation of apprenticeship funds under the Welsh Intermediate Education Act for the granting of scholarships to, or for aiding the education of poor children?—Those schemes are made, not on our initiative, but on the initiative of the joint education committee of the county, and I do not think that any joint education committee has as yet proposed to apply any apprenticeship funds in that way; therefore we have not made any such application, so far as I can remember.

393. Would it, in your opinion, be within the principle laid down in that judgment of Sir George Jessel's, that such funds should be so applied under the Welsh Intermediate Education Act?—No; that judgment would have no bearing upon proceedings under the Intermediate

Mr. *Egerton Allen*—continued.

Education Act, which is consolidated with the Endowed Schools Acts.

394. The only other point on which I wished to ask a question was as to the accounts presented by trustees to the Charity Commissioners. You have said, in your evidence of the 20th inst., at Question 20, that there has been no difficulty in compelling the production of the accounts, and that there are very summary powers in case of neglect to enforce production of those accounts. I wanted to ask (and this is with a view, if possible, to providing a remedy, if there is any difficulty, by legislation or by other means) whether there has been a difficulty found in getting trustees to present accounts to the Easter vestry, as well as to the charity trustees?—Yes, I think they often fail in their duty in that respect or perhaps I should put it, the trustees are under no obligation to present their accounts to the Easter vestry. The trustees are required to send a copy of their accounts to the churchwardens, who in turn are required to lay them before the vestry meeting.

395. Have you had many complaints that they have failed in that duty of sending parochial accounts to the churchwardens?—Yes, from time to time we have had complaints on that point.

Chairman.

396. On that point, will that duty now lie with the parish meeting, or with the persons appointed?—I forget at this moment; I know there is a provision in the recent Local Government Act about it.

Mr. *Egerton Allen.*

397. I want to follow that by asking, have you at present any means of compelling the production of the accounts, or rather the sending of the accounts, to the churchwardens, in the same way as you can compel the production of accounts to yourselves?—Yes, we can compel the trustees to deliver the accounts to churchwardens; we have the same power of compelling the delivery of accounts to churchwardens as we have of delivering accounts to ourselves.

398. Has that compulsion ever been exercised?—I do not remember that we have ever made a definite order in that respect, because in the cases which have come before us the duty has been performed on our making representations to the trustees.

399. The last question I was going to ask is this: you do not think it necessary that any further powers should be given to compel trustees to comply with their duty in furnishing accounts to churchwardens?—No, I think not. I think there is full power in the Act. The section which gives the power to which I refer is the 45th section of the Charitable Trusts Act of 1855.

Mr. *Lawson.*

400. A question or two as to the constitution of the Charity Commission. Are you satisfied with its present numbers?—As regards the Charitable Trusts Acts, certainly; I think three is the best number.

401. You do not wish to see the number increased?—No.

Chairman.

402. You say three; there are four, are there not?—With the Parliamentary Commissioner there are four. Yes, I think the number is the right one.

Mr. *Lawson.*

403. Is it proposed to make the Parliamentary Commissioner now take his share of the routine work of the office?—I do not think there is any proposal before us to that effect.

404. Could it, in fact, be done?—I do not know what Mr. Stevenson wishes. Perhaps I might add to the answer that I think that it would involve a very considerable re-arrangement of the work of the staff in the office to enable the Parliamentary Commissioner to deal with the work; he would have to have a Department constituted.

405. The position has somewhat changed, has it not, since he ceased to be a Member of the Government occupied with other duties?—It has certainly. Of course, you will understand that we do not throw any obstacle in the way of his doing it, a part of the work of the office, but I do not think any of the three occupants of the office since the change was made have desired to take part in current work.

406. In the Foreign Office, for example, the Under Secretary takes a special department, as you may be aware?—Yes. I do not suggest that it is impossible that the Parliamentary Commissioner should do so in this case; but we have not considered the question at all; the occasion has not arisen.

407. In the first days of the Commission it was the case, I understand, that the Parliamensioner belonged to the party opposed to the Government of the day for a short time?—I am not aware of that. Sir George Grey was the first Parliamentary Commissioner, but he was not opposed to the Government of Lord Aberdeen, was he? The Government of Lord Aberdeen was the Government that passed the Act of 1863, and Sir George Grey was then holding no office.

408. But since then the Charity Commissioner, whether he has belonged to the Government or not, has always been one of the party in office?—Always.

409. Was there any regulations made when the Minister of Education ceased to represent the Charity Commission in Parliament for this Commissioner to go out with the Government?—No, there was no change whatever made, as far as I am aware; but, even before that, the Commissioner always went out with the Government, because the Vice President held the appointment distinct from the appointment of Vice President. He was always specially appointed Parliamentary Charity Commissioner, and the way in which the holder of the office was changed on the going out of the Government was this: he holds office during her Majesty's pleasure, and her Majesty determined that pleasure by appointing some one else to the post on a change of Government.

410. But in the case of the last Government we may look upon it as established that the Charity Commissioner, though not a Member of the

Mr. *Lawson*—continued.

the Government, goes out with the Government?—Quite so; I do not think anyone has questioned that.

411. Then in a way, though not one of the Government, the Charity Commissioner for the time being now would have in turn to go out with the Government, though he is not a member of the Government, because he is a supporter of theirs?—Yes, I suppose so.

412. The fact that he goes out with the Government shows that there is a party complexion about it?—Yes, I suppose so.

413. Do not you consider that at the present time the Treasury would support the Charity Commissioner in the House of Commons in submitting Charity Schemes or Estimates; you call upon the Treasury to explain the estimate, do you not?—Of late we have called upon the Treasury very little for that purpose, since the Parliamentary Commissioner has been there to explain the Estimates; but from time to time a question arises upon the Estimates, which is a Treasury question, and then they defend it like other Estimates.

414. Have you lately tried to carry any scheme under the Act of 1860, as you have power under the Act to introduce public Bills embodying schemes into the House and introduce them as ordinary measures?—The Act of 1853 is what you refer to, Sections 54 to 60. Of late we have had two schemes of that sort within the last few years; they have been schemes of small importance, and we arranged as far as we could, before they were introduced, that they would not be opposed.

415. I must make myself quite clear; when the Vice-President of the Council represented the Charity Commission, he refused in a way, not taking part in your proceedings, to be responsible for anything more than the mere form of the presentation to Parliament?—Yes, I believe he did. I can refer to passages of our older reports, which state that, I think. They are, 16th Report (for 1868), page 4, 17th Report (1869), page 6, 18th Report (1870), page 6.

416. The position being changed, would it not be possible for you to use the Charity Commissioner, who now sits with the Government in the House, for getting through these schemes?—No; we do think he would be of much use to us. We should not bring in such a scheme, unless we got one or two members personally interested in the scheme to back it.

417. Have you tried?—No, we have not tried, but the experience of former times rather leads us to think that to get the Parliamentary Commissioner to come down and say that he wishes the scheme passed, would not be enough to drive it through.

418. In former times, as I gathered, you complained that you had no Parliamentary Charity Commissioner, because the Vice-President of the Council was unable to answer for you?—I think our complaint was that the Vice-President of the Council had not time to attend our meetings, and become familiar with our work. Now, we have a Parliamentary Commissioner who is familiar with our work; that is the great change.

419. Not only so, but I think you said that

Mr. *Lawson*—continued.

the Vice-President actually pledged himself not to attend the meetings?—Yes, that was since the passing of the Endowed Schools Acts.

420. He absolved himself from responsibility?—He absolved himself from taking any part in the proceedings of the Charity Commissioners. The reason was that he was in a double position; he was Parliamentary Commissioner, and also a court of appeal from the Charity Commission acting as Endowed Schools Commissioners.

421. Are you not of opinion that you could use your present Parliamentary Commissioner to better purpose than in the old days?—I think so.

422. Would not that apply, not only to questions and estimates, but also to Bills embodying schemes?—We might try, but I am not very sanguine of any useful result after the experience we have had.

423. Supposing that you had a Minister at the head of your department, your Board would be a Board in name only, that is to say it would be a Board of one like the Board of Trade?—Yes, I suppose it would be.

424. And your Commissioners would be reduced to the position of head clerks?—We should be secretaries or something of that sort, whatever you liked to call us; we should be permanent officers doing whatever we were told to do.

425. With reference to your judicial work, what is now called the judicial discovery, the President at the head of the office would have in those cases to decide over your heads so to speak?—Yes; I suppose it would come to this, that we should do the best we could, and in nine cases out of ten he would accept our decision, as I believe is the case with most officers, who have a political chief.

426. Is it the case that there is the same amount of judicial work in any other Parliamentary office?—No, I do not suppose there is.

427. Is it not the case that your judicial work differentiates it from any Parliamentary office?—Yes; our work has a much more decidedly legal complexion than any Parliamentary office.

428. Supposing you had a President or other officer in the House of Commons, should you think he would have sufficient work to justify his appointment at a salary?—I should not think so.

429. Is not the necessity of the case met by the separation of the office of Parliamentary Commissioner from the office of Education?—Yes. I think that the improvement has been so great in our relations with Parliament, that I could not say there is a case at present, in my opinion, for further charge.

430. And therefore you do not recommend yourself any alteration of the existing conditions?—No, I do not. I think that our touch with Parliament is exceedingly close, in some respects. I believe, closer than that of a political department, I believe that having no political officer to defend us we are more exposed to the criticism of Parliament than an office with a political head.

431. As I understand you, you would deprecate the work being divided between the Home Office and the Vice-President of the Education Department?—I think if our work is to be taken over it must be taken over as a whole.

Mr. *Lawson*—continued.

432. Suppose that the recommendation of the Endowed Schools Committee of 1887 were carried out, and that there were a general Minister of Education appointed, would not his other work preclude him from giving any personal attention to your office in all probability?—Certainly.

433. Would it not be necessary to appoint a Parliamentary Secretary or subordinate official, if it were to be as well represented as it is now by a Parliamentary Commissioner?—I think so.

434. Therefore it would involve another officer?—Yes.

435. I should like to ask in reference to the recommendations you made to the Committee of 1884, whether you think that the case that you presented for them (you made five recommendations; they are given at question No. 627), the case for the changes that you proposed, has become weaker or stronger?—The points there given are these: "The power to make new schemes, the vesting of the property of charities in official trustees, the audit and protection of the capital funds of charities, the greater control of legal proceedings, and the appointment of new trustees" I think the case has become stronger, because there are more charities, because public attention is more directed to the administration of the charities, and because we are more pressed by Parliament to get on with the work, and unless the alterations in the law there suggested are made, we cannot get on with the work.

436. May I ask why you have never presented a Bill to Parliament to carry those recommendations into effect since 1883?—It is not our business, but the business of the Government we suppose to present Bills to Parliament, and Bills were presented to Parliament in 1878, 1881, and 1883, with very little result, and we have never since then seen a prospect of such a Bill being carried. The antagonism shown in Parliament (in both Houses of Parliament, I may say) to any extension of our powers has been such that we thought it would be waste of time to attempt it. It involves a very great sacrifice of public time to prepare and bring forward those Bills; and speaking for myself, I have never thought it worth while to attempt it of late years.

437. But in 1883 you had a Bill which, I suppose, only required amendment to be brought forward again, to give effect to your ideas?—Yes. The Government did not go on with that. Mr. Shaw Lefevre was Chairman of the Committee, and the matter was in his hands.

438. Do not you propose applying to Parliament by a Bill to give you what you consider these necessary powers?—I should be very glad to see it, but it must be a Bill introduced by the Government of the day.

439. Might not a recommendation of this Committee induce all sides to accept a Bill of that kind?—I wish I thought it would.

440. You do not think of introducing any Bill?—No, we have received so much discouragement in the introduction of Bills that we do not think of introducing any more at present.

Mr. *Lawson*—continued.

441. You wish the Government to do that?—I do, if they could see their way.

442. With regard to the 50*l.* limit do you find that the trustees of charities over that amount are more inclined than they were to come under your jurisdiction?—I think that perhaps if there is any change, it is in that direction but not very marked.

443. Are there still notable cases where there is evasion of your jurisdiction?—Yes; one could bring forward the same sort of cases that I brought forward at great length in 1884, but I do not apprehend that the Committee wish that.

444. With regard to the doctrine of *cy-pres* which binds you in these Charitable Trusts, has there been any extension of that doctrine by the Courts since you gave evidence in 1884?—No, the high-water mark was reached by Sir George Jessel's judgment in the Campden case.

445. Has the audit of charities become more efficient?—I think it has as regards the greater charities; that is to say, that the larger Charities get their accounts audited better than they did in those; but we have no power of requiring audit.

446. Is it still the practice to call in the shoemaker or baker to audit small charities?—I daresay it is in the case of small charities.

447. I dare say you have observed in the case of building societies and so on that great fault has been found, by the Courts of Law, with audit by unskilled persons?—I have.

448. Does that apply to charities in the same way?—In many cases I should think the accounts of small charities are not audited at all, but where they are I think the audit is very often very imperfect.

449. Cannot you do, under your existing powers, any more than you have done in regard to the audit of charities?—No, I think not.

450. You cannot enforce it?—No.

451. You can call for the accounts?—Yes, which we do, when any complaints are made; then we establish a sort of informal audit, because we have no power of surcharging and disallowing. In a very bad case we should certify the Attorney-General, and the Attorney-General would bring it before the Court, and then the Trustees are equally held responsible.

452. Has that ever been applied often?—Not very often.

453. Have you any other powers of going into that question than you had in those days?—Only in that case of the Charities (Recovery) Act, for the recovery of annual payments or other payments due to charities; otherwise we have no further powers than we had in 1884.

454. In regard to new schemes, have you altered at all the definition you gave at that time of the principles which guided you in drawing up new schemes?—No, I think not; the principles are just the same. As regards the constitution of bodies of trustees we of course have introduced the representative element more freely.

455. As to the objects, I mean?—No; our lines are just the same, except that we look more towards technical education than we did.

456. One

Mr. *Lawson*—continued.

456. One particular object I want to ask you. You mentioned in your previous evidence that old age pensions, or similar provisions, were part of the object you aimed at; has that been widely applied in your schemes?—Very widely indeed.

457. With satisfactory results?—Yes, I think so.

458. How have you applied it; by what machinery generally?—The way generally is to get the dole Charities together in a scheme, which takes a long time, and then to apply a considerable portion of the income thus consolidated in the establishment of pensions of, say, from 6*s.* to 8*s.* a week for poor people, who have resided in the parish three or five years, so as to prevent people coming into the parish in order to obtain them.

459. Has it had the effect of drawing people in from outside?—No; I do not think the pension system has, and I think the Trustees would be unwilling to abuse it in that way.

460. On the other hand, have you found that the dole Charities have the effect of pauperising the population in that way?—Yes; notably in some cases.

461. Do you make it a principle to commute doles where you can?—Yes; and I should like to have put on the notes a long passage, in which we have made a report as to the application of doles to pensions, and I might add to the purpose of providing nurses for the poor. The paragraphs are paragraphs 16 to 28 of the 40th Report, and I may add that that will be found among the passages that I have put in.

462. Do you find that there is any greater readiness on the part of the inhabitants of different parishes to accept your schemes than there was?—No, I think not; I think the diversion of doles to what we consider more useful purposes is at least as resolutely opposed, and in some parts of the country, particularly the eastern counties, even more strongly opposed than ever.

463. Even when the diversion is for the purpose of old age pensions?—Yes; I think the change from doles is very bitterly opposed.

464. But it is your policy to do away with them, as far as you can?—Yes; but we have to encounter opposition, and we cannot do all we wish.

465. And, I suppose, under your existing system, the local opposition is very often too much for you?—It is sometimes.

466. With regard to the Official Trustee, may I ask whether he has been instrumental in getting rid of a great deal of real property during the last few years?—He is merely a machine. Everything that is done by the Official Trustee is done by us. We show every year in our report the amount of what is done in that way.

467. It is an increasing amount; last year it was 293,000*l.* against 191,000*l.* in the year before?—Yes, the table to which the honourable Member refers is to be found on page 9 of the 41st Report. Those sales perhaps indicate the

Mr. *Lawson*—continued.

increasing desire on the part of Trustees of Charities to change their investments.

468. And to get out of land?—Yes.

469. Does the Official Trustee make that part of his settled policy in dealing with this money?—The Official Trustee has no policy at all. The applications are made to the Commissioners for leave to sell Charity property, and we always try to get the best terms we can. We do not consider that Charity landed property ought as a rule to be sold, because Charities live for ever, and may live to see the value of their real property increased again; but on a case made, we nevertheless sell if it is for the benefit of the Charity.

470. Are you in regard to that impeded by the subsequent Report of the Committee of 1884 which dealt with Allotments?—No, because the Court of Chancery decided that the Allotments Act did not prevent the sale of lands.

471. Since that time, has much been done to carry out the subsequent Report of that Committee of 1884?—Yes, a great deal, but much less of late years because we have many fewer applications. I think the Allotment Act of 1887 and other Acts have increased the supply of Allotments, so much that the demand for Charity Allotments is much less.

472. I understand that you yourself do not make much use now of the Court of Chancery?—No; we send cases sometimes; in a case in which we think a scheme is urgently required, and the Trustees will not apply for it, we ask the Attorney General to take a case to the Court of Chancery, and he does so; and it ends in a scheme being made.

473. In the schemes which you draw up, can you tell us what proportion of representative Trustees have been appointed during the last few years?—No, I cannot say that off-hand; but the Returns which I am going to put in will show that.

474. In the evidence of 1884, you said that you thought it requisite to have some big schemes for some of the big cities, like that which you had under Mr. Bryce's Act for London?—Yes.

475. Has anything been done in that respect?—Nothing has been done.

476. Bristol is one case, is it not?—Yes, that is one of the strongest cases. We have been continually at work at Bristol, but do not succeed in getting applications; we have made no attempt to get an Act, for the reasons that apply generally.

477. So far as you know, you have no intention at present of doing anything in that direction?—No, I think not; I do not see any prospect of it; it would be strenuously opposed in the locality, any attempt to deal with the Charities in that way.

478. I understood you to say that the Charities were concentrated as in London, in areas which really do not now require them?—I believe the case to be exceedingly like the London case; if anyone like Mr. Bryce were to appear, who passed the London Act amid such enormous difficulties, it might be done. Certainly the instance of the London Act is encouraging,—the only encouraging feature.

479. That

Mr. *Lawson*—continued.

479. That is more than 10 years ago now?—Yes.

480. And nothing further has been done?—Nothing further has been done.

481. Have you been making use to any large extent of the newly-created local bodies—I mean the County Councils, to co-operate with you or by way of consultation in drawing up schemes?—We have made a large use of County Councils in two ways. We have asked them to appoint Trustees of Charities, and we have had a great deal of communication, I think with most of the County Councils; as to their subsidising endowed schools under our jurisdiction; and we have co-operated with them in this way. In order to justify them in making grants we have agreed to put their representatives on to the governing bodies of these schools; that is a process going on very largely at this time.

482. So far as you know, have most of the County Councils told off Special Committees for this sort of work?—Yes.

483. In London there is a Corporate Property Committee of the County Council, is there not?—There is a Corporate Property Committee; but there is a body more closely connected with the subject, the Technical Education Committee. It is partly composed of members of the County Council, and partly of members not connected with the County Council; and to that body the County Council have delegated the whole of their funds available under the Customs and Excise Act.

484. Do you think that County Councils and Municipal Corporations should be more used than they are now in drawing up draft schemes?—I do not think that they would be useful in drawing up schemes. I think their criticisms might be very useful. I think the work of drawing a scheme is rather the work of a body that makes it its main business. By way of illustration, I may say that in the Welsh Intermediate Education Act, it is provided that the Joint Education Committee may prepare a scheme and send it up to us, or send proposals and ask us to prepare a scheme, and in every case they have adopted the latter course. They have merely sent heads of proposals, they being perfectly free to adopt the other course if they like.

485. Do you send your draft schemes now in practice to the County Councils?—Yes, in practice very largely, whenever they wish to see them. In London the County Council have asked to see our schemes, and a copy of every scheme published goes to them at once, and they make many observations on them.

486. As a rule, do you fall in with their wishes?—Yes; I think they have exercised a considerable influence on our schemes.

487. Does that apply to any other County Council than that of London?—I do not at this moment know any other County Council that has asked to have our schemes; but we have many communications from County Councils when they see the ordinary notices that we publish.

488. Then, as regards Municipal Corporations?

Mr. *Lawson*—continued.

—As regards Municipal Corporations, we do give every Municipal Corporation notice of a scheme proposed within its jurisdiction.

489. In the case of towns, do you send notice both to the County Council and to the Municipal Authority?—No, I do not think we have established that practice.

490. The advice of the County Council would be profitable, would it not?—Yes; we are extending our communication with them.

491. You think you are doing all that can be done, gradually?—I think so. Our relations with the County Councils are on the best possible footing.

492. Including the London County Council?—Yes, including the London County Council.

Mr. *Griffith-Boscawen.*

493. You stated the last time, at Question 75, that your administrative and judicial functions were very much bound up together; that, I suppose, means that a great deal of your business partakes of both characters?—Yes, I think it does.

494. That being so, I want to know do you think it possible to draw a broad dividing line between the two?—I think it is almost impossible; I have tried to do it very often.

495. Almost impossible, you say. If a large amount of your administrative work could be subject to the control of Parliament, it would not be possible to draw the line, so that your administrative work should be a subject of the control of Parliament, and your judicial work not?—As far as I can see, I should say no.

496. If that were the case, we should have judicial work—work in fact derived from a Court of Law, subject to being reversed by a Parliamentary decision. I understand that your work is really of a judicial nature?—It is really of such a judicial nature, that it is the subject of appeal to Judicial Courts.

497. You have to interpret Acts?—Every day.

498. Would it not appear to be a very strange state of affairs that your interpretation of Acts of Parliament should be capable of revision by Parliament?—It would be unusual, certainly.

499. There is no other such case, as far as you know, in the existing Government Departments?—No; I do not think I know of any.

500. I mean to say, if you were constituted into a Government Department, it is perfectly different from the other Government Departments in that particular that you would be interpreting Acts of Parliament and they would not, and you would be actually building up the law, so to speak?—Yes. I suppose some of the work of the Local Government Board is something of the same sort.

501. To a certain extent?—To a certain extent.

502. But not nearly to such a large extent?—Certainly not.

503. Does it appear to you that it would be advisable that that should happen?—The theory of the present arrangement seems to me to be correct.

504. For

Mr. *Griffith-Boscawen*—continued.

504. For instance, it would be rather a curious state of affairs that the Court of Chancery should be subject to Parliamentary revision?—Yes.

505. And you are a body derived from the Court of Chancery?—Yes.

506. And your judicial work is strictly judicial. It has been suggested to-day that the work you took over from the Court of Chancery is not really judicial?—It is not less judicial in our hands than it was in the hands of the Court of Chancery.

507. It is quite as judicial?—Yes.

508. And it was taken from the Court of Chancery and given to you, not because it was not judicial, but because the Court of Chancery had too much else to do, and had not time to do this with sufficient promptitude; was not that so?—I think that was the main reason. Perhaps it would be but fair to say that we were to do it in a less formal way, as Mr. Lowe points out in that extract from his evidence to which I have called attention already.

509. In a less formal way, but still in a judicial way?—Yes; we have to be impartial, and hold the balance between the two views.

510. Let me give a concrete case. Under the Local Government Act of this year you have to interpret certain clauses, I think?—Yes.

511. You have to decide the vexed question of what is an ecclesiastical charity?—Yes.

512. Supposing that there was Parliamentary control, Parliament, I imagine, might ask you to upset your decision in a particular case, and say that a certain charity which you had said was an ecclesiastical charity was not an ecclesiastical charity?—The section which you refer to rather indicates the difficulty of the whole case, because Parliament only a few weeks ago said that we are to decide certain questions, and our decision of those questions is to be subject to review by the Court of Chancery, and then the Court of Appeal. One hardly sees the place for another control.

513. Where would Parliament come in; would Parliament come in after the Court of Appeal, or could Parliament interfere at any moment and set aside not only your decision, but also that of the Court of Appeal?—It would be, I suppose, that an office politically controlled by Parliament would decide, and then the Court of Chancery would reverse its decision; it seems a strange state of things.

514. Then Parliament could again reverse the decision of the Court of Chancery?—Parliament, of course, could do anything.

515. Do not you think it would be rather an anomalous state of affairs and quite different from anything that exists in any Government Department at the present moment?—So far as I know, I think that is so.

516. And I do not imagine that that would help you in your work?—As regards help, of course anything that assists to drive our work along is a help, and it might be that political momentum might drive the work along.

517. But that political momentum might not only in this case drive the work along, but it might upset the work and reverse what you had done?—It might.

518. That would be a great disadvantage?—Yes. It is difficult to see how to apply the momentum. There are times when one wishes we had a little more power to drive things along.

519. You think that really to draw a dividing line between judicial and administrative work is an impossibility?—Yes.

520. If that was not impossible it would help you to have some sort of Parliamentary control of your purely administrative work?—It is not for me to say that it is sufficient now, but there is considerable Parliamentary control and we are daily controlled by Parliament.

521. You say you are in close touch with Parliament?—Yes, very closely.

522. And you could go on, you say, as you are?—Yes.

Mr. *Lawson.*

523. You are under the control of Parliament?—Every public servant, every public office, is under the ultimate control of Parliament. We are the servants of Parliament and paid by Parliament.

Mr. *Griffith-Boscawen.*

524. What I was referring to before was this: I suppose your decisions might be reversed now by means of an Act?—Yes.

525. That is a different matter from having a sort of administrative reversion constantly going on?—Quite distinct.

526. A few questions on another point. It was mentioned by Mr. Oldroyd, I think, that there are certain cases in which charities meant for the poor of the whole of a parish have been apparently monopolised by the Church of England. I want to ask you what exactly were those cases; were they cases in which the charity was left distinctly for the poor of the whole parish, or cases where it was left simply for members of the Church of England?—The cases I have in my mind were cases where the charities were left for the poor of the whole of the parish, and in some cases of small extent and amount we have reason to believe that the benefits have been confined to members of the Church of England.

527. They were confined by the action of the existing trustees, and they ought not to have been according to the will of the donor?—No, they certainly ought not.

528. There are not many cases of that sort?—No; certainly not many. As I said, I cannot say that there are none.

529. Have you ever come across any similar cases where charities were left in the hands of Nonconformist trustees for the whole of the parish, where they have been confined to Nonconformist persons?—No; I do not think I know of what we call a distributive charity of that sort. I think I have heard of almshouses confined to Nonconformist alms people.

530. But those are cases, I suppose, where it had been expressly said that they were to be confined to Nonconformists?—I think so.

Mr. *Griffith-Boscawen*—continued.

531. I am glad to have that stated; I did not quite understand what charities you were referring to. I apprehend that where a charity has been specifically left for the benefit of the members of the Church of England it is the proper course that it should be so confined?—Certainly.

532. And in a similar manner there are charities left for one particular sect of Nonconformists, say Baptists, or Wesleyans, and they have been confined to them; and that is right? Yes.

533. Are there many cases of that sort?—There are not many cases of eleemosynary Nonconformist charities; there are some. There are many cases of Nonconformist charities such as endowment of chapels and endowment of ministers, but those are not what the honourable Member refers to, I understand.

534. In reply to question 32 last time you said that the powers vested in the Charity Commissioners were in the second place, "To protect the property of charities against waste and loss, and so to preserve it for the purposes to which it has been dedicated by the founders." And you referred to the Charitable Trusts (Recovery) Act of 1891, and said it had been very useful?—Yes.

535. Is that the case?—Yes; and I had higher authority for saying that than my own, for it was only on Thursday last that the first case under that Act came before the Chancery Division, and Mr. Justice Chitty expressly said that he thought it was a most useful Act.

536. Are there 22 cases in which those powers have been successfully used?—There is an analysis of the cases, under the Charities (Recovery) Act, in paragraph 23 of the 41st Report.

537. Could you tell me what is meant by the word "Recovery;" what precisely has taken place on these cases?—The Act empowers us where we consider that property of an annual value not exceeding 20*l.* a year ought to be recovered by the charity, to institute summary proceedings ourselves for its recovery; and the most valuable part of the Act is that it makes the old reports of Lord Brougham's Commission—a very large series, as the honourable Member knows—*primâ facie* evidence of the facts mentioned there; and that is of the greatest possible assistance in enabling us to recover these charities.

538. Would Parliamentary control help you there?—No; it is purely legal work. We initiate the proceedings.

539. You do not want any political momentum there?—No; no political momentum is required at all. We have to get the consent of the Attorney General to institute proceedings; but that is not given politically, of course, but legally.

Mr. *George Russell.*

540. I was desirous of asking a question about the practical working of your *cy-près* doctrine in educational matters; but if it were more convenient to you that I should not put those questions to you, but to your colleague, who is more immediately conversant with them, I will defer them?—I think if the honourable Member's questions refer to the *cy-près* doctrine I ought to answer them, because Mr. Richmond is concerned with the Endowed Schools Acts in which the *cy-près* doctrine has no place.

Mr. *George Russell*—continued.

541. I want to draw out from you some of the leading principles on which you administer educational charities, where the precise object for which the founder left them has become obsolete, or become outstripped by the times?—I think, as the honourable Member puts it generally now, perhaps Mr. Richmond would be better qualified to answer the question.

542. Perhaps you will allow me to put my questions, at any rate?—I will do what I can to answer them.

543. They must be, in their form, hypothetical; they are not imaginary; they are founded on instances more or less within my personal knowledge. Suppose a case of this kind: a charity left, say in the 17th or 16th century, for the education of the poor of a particular village or small town, or among several small towns in the neighbourhood, with specific reference to the Church of England. I do not want, at this moment, to enter into the question of what constitutes an ecclesiastical charity. You are aware that in many of these charities there are references to taking all the children to Church, which seem to stamp it with a Church of England character. There are many such charities and trusts in which, by use of such words, a Church of England character is stamped on the trust, though it may not be described in express words that the recipient should belong to the Church of England?—That question clearly would involve a reference to the Endowed Schools Acts, which involve a very strict definition of what we are to consider, in administering those Acts, to be Church Charities. You may take it that there are words which are frequently found in foundations which compel us to recognise charities as Church Charities, and those conditions are strictly defined in the Endowed Schools Act.

544. Then, supposing that in the lapse of time, in the particular parish or village to which this charity was left, the population has very much diminished in size, owing to having been on a coach road and now, being off the line of railway, or from any of those causes which contribute to the depopulation of country places; and, supposing at the same time, that the income has either remained stationary, or even decreased, and that, during 200 years the income of the charity has sufficed for the elementary education of the whole place; supposing that on looking into the accounts of such a charity you were to find that the income is now very considerably in excess of what the elementary education of the place could absorb, and that there was a considerable surplus or accumulation of funds; would you then step in of your own motion, I mean you, the Charity Commission,

Mr. *George Russell*—continued.

Commission, and say, "Here are accumulations; something must be done, as nearly as we can get it in consonance with the founder's will"?—Yes, we should. The Endowed Schools Act gives us power to initiate proceedings for that purpose.

545. You would not permit an indefinite rolling up of money in the hands of the Trustees in a case of that kind?—No, we should not.

546. And there would come in the doctrine of *cy-près*; in interfering with the Trustees you would have regard to the intention of the founder and endeavour to make these funds useful for some purpose, as nearly as you could get it, consonant with the purpose of the founder?—Yes; under the Endowed Schools Act we can take rather a wider range than we should under the Charitable Trusts Act; it would be in the same sort of direction.

547. Would you, in the first instance, before you formulated a scheme or laid down any scheme, consult the Trustees on what they thought right?—Yes, certainly.

548. Would you be bound to do that, or is that merely a matter of common sense?—Under the Endowed Schools Acts we are actually bound to give notice to the governing body.

549. Are you bound to have regard to what they say in the matter, or can you override them?—We can override them, except in certain special cases in which their consent is necessary; and in those Church cases consent is necessary.

550. We will eliminate that part till I see Mr. Richmond. Without reference to Church questions, you say that you could if you found the Trustees, the governing body, perverse and obstinate in sticking to what they were doing, override them?—Yes, speaking of our technical powers, we could.

551. If you think that they are unwilling to come into any reasonable application or extension of the founder's will, you might say, "This must be done; we dictate such-and-such a course to you"?—Under the Endowed Schools Acts our dictation could only go to this extent, that we should submit a scheme to the Education Department. We might say, "We cannot agree with you; we shall submit a scheme in our own form;" and then it goes forward, and becomes a political matter.

552. The Trustees, at any rate, would have therefore a consultative voice, in the first instance?—They always have.

553. Would the inhabitants of the place have any voice except through the Trustee?—Yes, because full notice is given publicly of the proposed scheme. It is deposited there in the locality, and we get sometimes in important cases very numerous representations, which all have to be considered.

554. It is not necessary to have a particular *locus standi*; it is not necessary to be a corporate body; the individual inhabitants can come forward?—The individual can come forward and deal with us. When you come to the Judicial Committee appellants must have a certain status; but that is a step a long way on.

555. But with reference to the Trustees, and in the second place, the open notice to the inhabitants, would it be true that a new scheme could not be set up without the concurrence of the great body of the inhabitants; or would a case often arise in which you and the Education Department between you overrode the local inhabitants?—No, I do not think it often happens. If we should be disposed to do it, probably the Education Department would step in. We often have had cases in which we have thought it right to send a scheme on in a form not acceptable to the Trustees, and then the Education Department often acts as a sort of mediator and suggests a compromise.

556. Supposing an endowment originally applied to merely elementary education had got far beyond what the elementary education of the place could exhaust, and a question arose between you and the inhabitants whether you would set up a grammar school or a technical school, regard would be had to the sentiment of the place; you would not force a technical education upon them if they wanted a grammar school, and you would not force upon them a grammar school if they wanted a technical education?—No; in the case you put we should be very much guided by local sentiment.

557. I have spoken of local sentiment, meaning the sentiment of the actual place and the village or town in which the charity was left; but supposing that the actual place has become a very small one, a mere hamlet; and that something which was a hamlet has become a big town; that is to say, that the natural original relation of the two localities has been inverted, and that the important place is one not mentioned in the original trust, and exterior to the limits of the original parish, would you admit that the inhabitants of the exterior place have a title to put in any claim and say, "We are so near as to be entitled from the physical *cy-près* sense, to have the advantages of the Trust"?—We have cases of that sort, but there is nothing so difficult in the whole range of our work as to take an endowment in that way from one place and apply it to another under the circumstances you mention; and in the last case in which it was done our fortune was rather evil in the matter, for after we had taken it the population immediately began to go back again to the old place under the influence of colliery workings.

558. But that is an extreme case, taking it from one place, as you say, and giving it to another; I did not contemplate such a strong order as that; I contemplated the admitting of an exterior place to share in the benefit with the original parish, and extending of the boundary of the benefit?—That is not unfrequently done, and the way in which we do it is to attach a schedule of adjacent parishes to our scheme, and say that the original parish shall be served first, and then the benefit extended over the parishes named in the schedule.

559. Would you allow them also to have a voice in determining what sort of alteration should be made; for instance, in the question of extending elementary education, adding to it secondary education; would you allow the neighbouring places to have a voice in that, to say, "We want this" and "We want that"?—Yes;

Mr. *George Russell*—continued.

if we published such a scheme with a schedule comprising the names of the parishes, they would certainly be heard in suggesting any modification of the scheme.

560. What would guide you as to including these exterior places; the opinion of the trustees, local representations?—Yes; I think we should be a great deal guided by local representations. We should send an Assistant Commissioner down to inquire as to that, among other matters.

561. If you and the trustees, or you and the inhabitants, come hopelessly to loggerheads on some point of administration and you determine on pursuing your own course, an appeal would lie from you to the Education Department?—Under the Endowed Schools Act it would lie to the Education Department.

562. And I suppose that would have to be formally in the long run an Order of Council?—Yes; but as I was saying this morning, there is a double appeal from the Education Department to the Judicial Committee, and to Parliament.

563. Then you mean that even the Vice-President advising the Queen is not the last authority in such a case?—No.

564. But supposing that the inhabitants were determined on fighting, and supposing the prize was worth laying out money for, they could press beyond the Vice-President, could they?—Yes; they could consider whether they would have a better chance before a political Court of Appeal than a legal Court of Appeal, and go to the Judicial Committee or Parliament as they thought best. The right of appeal is limited, but I think ratepayers can appeal and municipal corporations can appeal.

565. But it would all of necessity go from you to the Vice-President of the Department?—It must.

566. And then there would be the parting of the ways: they might go either to Parliament or the Judicial Committee.

567. Not to both?—Yes, they may go to both.

568. I thought they had to choose their remedy, one or the other?—No, they may go to both.

Mr. *Lawson.*

569. Not a formal appeal to Parliament?—Schemes are not laid before Parliament unless the Education Department is asked specially to lay them before it; and that really is tantamount to an appeal. The dissatisfied parishioners in the case would ask the Education Department to lay the scheme on the table of Parliament.

Mr. *George Russell.*

570. Could the Education Department refuse to do that?—No, the Act is compulsory.

571. On the question of extension there is one other point I should like to ask you about. You would admit this case that I put of extending the benefits from elementary education to setting up of a grammar school or technical education scheme?—Taking an elementary endowment and applying it to a grammar school of course is a very strong thing, and would require very special circumstances to justify it.

572. I do not mean taking it away from elementary education; but supposing there is considerably more than is required for elementary education?—But many persons would say that being on the level of elementary education, it must remain on that level, only spread over a wider area.

573. Surely there are cases where the original trust was only for the education of the poor, the word "elementary" not having been used?—There have been cases. The setting up of a grammar school in the place may be for the benefit of the poor. It may be justified in this way: If it is desired that the poor or individual members of that class should have access to higher education they cannot have access to higher education unless there is the grammar school.

574. In that case the Charity Commission would insist that the terms of the grammar school were such as to bring it within the means of the poor?—On that point I may say that we should connect it with higher education by a system of scholarships.

575. In paragraph 15 of the recommendations attached to the Report of the Endowed Schools Act Committees I find this: "It is desirable that in the framing of schemes the wishes of the localities should be more consulted, and that in their administration the governing bodies (if in the future really representative) should be left more unfettered in their action"?—Yes.

576. You say that though it would be an extreme case, and the setting up of a grammar school out of funds originally designed for the education of the poor is within your competence and has been done?—Yes, I should think very rarely of late years.

577. Then with respect to technical education, that is a more new-fangled style. I suppose that is contemplated, the application of such funds to technical education?—Yes.

578. Are those applications of the *cy-près* doctrine the widest departures from the founders' intentions which you would consider permissible in the matter of educational funds, or is there any further departure?—No, I think not, because if we go back to the Endowed Schools Acts we are limited to the education of boys and girls, and we cannot get nearer to that than by grammar school and technical education.

579. I am using the word *cy-près*, perhaps in a sense not technically correct, but these deviations from the founders' will would not have been permitted by the Court of Chancery?—Yes; and my answer should have had reference to the Endowed Schools Acts, where we have wider scope. I understood you, in the earlier part of your examination, that you did not use it in the Court of Chancery sense.

580. Would not those deviations that we have now spoken of have been permitted under the administration of the Court of Chancery before you had your Act?—Yes; I think in some cases.

581. They did things something like that?—Very likely.

582. The further extension I was contemplating was something like this: would it be permitted under any circumstances to give means for carrying a boy to the University by way of exhibition?

Mr. *George Russell*—continued.

exhibition?—Yes; the Endowed Schools Act contemplates that.

583. I suppose the furthest limit of this extention of the educational benefit would be to the the end of the time when they were in a *statu pupillari*?—Yes; to the end of the time fixed for holding the exhibitions.

584. I mean it would not be possible to extend it further, to make it practically a fellowship?—No; we have considered it in a recent case, and held that we cannot.

585. It cannot be applied to the purpose of endowment of research?—No, it cannot be carried as far as that. You were good enough to say that your questions had reference to a particular case. I should hope that my answers may be taken as subject to all limitations applicable to the circumstances of the case you have in your mind.

Sir *Andrew Scoble.*

586. The Charity Commission, as now organised, is entirely a non-political body?—Yes, entirely, except so far as the Parliamentary Commissioner is appointed by the Government of the day.

587. And entirely undenominational?—Entirely undenominational.

588. And as far as its connection with politics is concerned it is represented by the presence of of one of its Commissioners in the House of Commons or the House of Lords, as the case may be?—Yes.

Chairman.

589. Do you say in the House of Lords?—We have had two Commissioners in the House of Lords; Lord Clinton and Lord Colchester were Endowed Schools Commissioners; they were Charity Commissioners appointed under the Endowed Schools Acts; they were the predecessors of Mr. Richmond.

Mr. *Lawson.*

590. But not of Mr. Stevenson?—No, they were not appointed in that way. The holder of the office which Mr. Stevenson now holds has always been in the House of Commons; by the Act he is made capable of sitting in the House of Commons.

Sir *Andrew Scoble.*

591. If I gather the effect of your evidence rightly, you are satisfied with your present system of Parliamentary representation?—Yes, I think, so far as we have been able to estimate it, I may say so.

592. Do you attach any importance to the Parliamentary Charity Commissioner being a member of, or connected with, the Government?—No; I think it is desirable he should not be a member of the Government, but that we should have the first call upon his time.

593. Do you wish that he should not merely be the representative of the Commission in Parliament for the purpose of answering questions, and giving explanations, but that he should also take a part in the actual work of the Commission itself?—I would not go so far as to say that, because that has never been done yet, but I think it is undesirable that he should have other calls upon his time which prevent him from attending our meetings and coming, as the Parliamentary Commissioner does, to inquire into cases in which questions are asked.

Sir *Andrew Scoble*—continued.

594. That is the sense in which I used the words "take part in your actual work"?—I was thinking of another question put to me by another honourable Member.

595. I mean, he should be a Commissioner in fact as well as in name, taking such part as his leisure enables him to do in your proceedings at your weekly board and otherwise?—I attach the greatest importance to his being able to attend our Board meetings, which are held twice a week.

596. Then, so far as Parliamentary representation is concerned, you desire no improvement upon the present state of things?—No; I think it is a system recently established which is on its trial, and I think at any rate it should have a further trial; I am not dissatisfied with it at present.

597. So far it has worked well?—I think it has so far worked very well.

598. Now, with regard to Parliamentary control by means of the existence of a Parliamentary Commissioner; I think you said that your proceedings are now practically under daily Parliamentary control?—I think I may go as far as that; I think, what with questions addressed in the House, and questions addressed very close to the House, to our Parliamentary representative, we are under very direct control.

599. Do I understand you to consider that the control of the Commission, so far as at present exercised by the Court of Chancery, should be stopped, or rather, that the control of the Court of Chancery should be stopped, and the control of the House of Commons substituted for it?—I have not suggested that.

600. Do not you think it would be a very dangerous thing if the House of Commons were to assume judicial functions such as are now exercised with regard to your proceedings by the Court of Chancery?—Yes, I think the Court of Chancery is the more proper tribunal, if I may venture to say so.

601. And, if I may suggest it, more satisfactory?—It would be to me, considering the nature of the questions which we have to decide.

602. Of course, though you are not a political body, political considerations frequently enter into the administration of Charities, do they not?—Yes, we often have that in our work.

603. And, in your opinion, is it desirable that those political considerations should be, as far as possible, excluded?—Yes, that is the policy on which we have always worked.

604. Do not you think that there would be a danger, if a more direct control of the House of Commons were introduced, that political considerations would have a greater weight than they ought to have in the administration of Charitable Trusts; would there not be the danger of that, at all events?—They would have a greater weight, certainly.

605. Can you suggest to the Committee any way in which a more direct control by Parliament than already exists can be advantageously introduced?—As I have said, I see no reason to be dissatisfied with the present system, which is, perhaps,

Sir *Andrew Scoble*—continued.

perhaps, on its trial; but (I do not wish to suggest it) if we go further, the step to which I think there are fewest objections, would be a step in the direction indicated this morning by an honourable Member on the lines of the connection of the Treasury and the Board of Customs, the Board retaining its individual separate existence.

606. That would have rather relation to your financial arrangements than to the administration of charities, would it not?—No; I suppose the Treasury have a control over the work of the Board of Customs. I do not know the detail of it, but I fancy it is a control only exercised rarely and in large matters; but I cannot speak with any certainty about that.

607. You said just now that you thought the extension of the parliamentary control might have the effect of driving business through Parliament?—Yes.

608. Do not you think it would have rather the effect of delaying it?—Yes, if it became the subject of discussion.

609. Or if it involved the submission of all your proceedings to Parliament?—The submission of every detail to Parliament would involve very considerable delay.

610. And that would be fatal to your efficiency?—Yes; but even in the case of a political department, every detail, I take it, is not submitted to the control of Parliament.

611. Then as regards your judicial work, you would prefer that you should remain as at present, subject to appeal and control by the Court of Chancery?—Yes.

612. I think I am right in supposing that when you refer to the efficiency of the Court of Chancery, you do not mean to say that the Court of Chancery is not now as capable as it ever was of doing special charitable work, but that fewer calls have been made upon it in charity matters of late years?—Yes, I should put it in that way, and of course the Court is less familiar with charity cases; but when our appeal cases came before them, which they very rarely do, it is not too much to say that they have a good deal of assistance from us and our particular counsel in handling the case.

613. Still I suppose there have been few decisions of the Court of Chancery of more value to you than the comparatively recent decision of Sir George Jessel in the Campden Charities case?—That has been of distinct assistance.

614. In fact the whole class of Charity Law which you administer has been the result of successive decisions of the Court of Chancery?—Yes.

615. Rather than the result of statutory enactment?—Certainly; there is very little statutory enactment in it.

616. Then, if I rightly summarise your evidence, you have no distinct proposal to make for a more direct control of Parliament in regard to charity matters; and you are satisfied practically with the present state of things; with the intervention of Parliament as it is now exercised, and the intervention of the Court of Chancery whenever it is called upon?—Yes.

617. With regard to the second part of the Reference, "more effectual means of dealing with the business which will come before it," I think you have very little to add, as far as I have been able to gather, to the recommendations you made in 1884?—No; I think the recommendations that I should now make are merely different in degree; that we want more staff than we did before; that is about all. Of course we should be glad to have the alterations of the law which I mentioned, as to which I was examined this morning.

618. You would like to have the assistance of Parliament, to give you a bigger grant on the Estimates; and the Act of Parliament which you have been wanting for the last 10 years?—That is the sort of assistance, I think, that we require most.

Mr. *Wickham.*

619. You alluded just now to the Customs and the Treasury; what analogy is there between the Customs Office and yours?—I should think very little as regards their work; their work is very different from ours.

620. Their work is mainly, if not entirely, for the purpose of raising revenue?—Yes; very distinct from ours, I quite admit.

Mr. *Strachey.*

621. I want, first of all, to clear up this: There seems to be a little difference between the answer you gave to-day, and the answer to Question 120, as regards notice to municipalities; you were asked if you would give notice to county councils and other local authorities in the same way as you do to the great municipalities, and you said you would hardly like to answer the question off-hand; but do I understand that you have re-considered that question, and that now your Commission would be prepared to give notice to County Councils and all rural bodies such as Parish Councils?—No; I did not intend to vary the answer. We should have no objection to do it if we were asked.

622. But you would object to do it as a matter of course as you do to municipalities?—I do not say we should object to do it, but it would involve a large amount of correspondence and additional labour.

623. Would you do it in the case of County Councils as a matter of course as in the case of Town Councils?—The London County Council has asked us to do it, and we do it; and we are prepared to do it in any case in which the County Council asks us.

624–5. Am I right in understanding that you say that there is no appeal from the decision of the Commission as regards the details of a scheme?—Yes, there is an appeal to the Court of Chancery,

626. But no other appeal?—No other appeal.

627. That would be final?—Yes.

628. And then when a scheme has once been put in force, can it be revoked or altered in details by yourselves?—Yes, we have the same power to alter a scheme that we have to make it; but it must be the subject of an application; we must have an application to do it.

629. You cannot do it of your own initiative?—No, not under the Charitable Trusts Acts.

630. It

Mr. *Strachey*—continued.

630. Is it obligatory, do you consider, upon County Councils as the successors of Quarter Sessions to keep a record of all charities belonging to their county?—I imagine that that Act, obsolete in practice, is still in force, but the Act to which the honourable Member refers had not been acted upon for 50 years before the establishment of County Councils, and I believe the reference to it was inserted in the Local Government Act of 1888 under a misapprehension.

631. Do you consider that you have no power and no duty to apply to County Councils to put it into force?—No certainly not; but the constitution of the Charity Commission since that Act was passed has rendered the Act practically unnecessary, because anybody can get the fullest information as to charities by coming to us now. There was no Charity Commission when that Act was passed.

632. Might I ask you whether, in your opinion, there would be any advantage derived from County Councils having certain primary powers of control of Charity Trustees; the same powers as you now exercise; of course, I mean that they should have a power of settling questions of dispute and difficulty arising under a scheme, instead of, as is the case now, the Trustees having to appeal to the Commission here in London?—That might be done, but it would mean 52 Charity Commissions sitting all over the country, with a very much diminished volume of experience in each.

633. You would get more local control; they would have more local knowledge and more local interest?—The County Councils have more local knowledge, but I doubt whether it would be a satisfactory way of doing the work.

634 I do not know whether the question is premature, but may I ask whether you have yet considered what steps you would take for bringing into force Section 14 of the Local Government Act, 1894?—I cannot tell you. We shall certainly do what Parliament tells us.

635. You have a great deal of discretion; for instance you have discretion as to whether you will allow trustees to hand over a building belonging to them to the Parish Councils?—My answer must be that we should be guided by the circumstances of each case.

Mr. *Strachey*—continued.

636. You would not like, with regard to the Act of 1894, to lay down a general policy, but you would take each case on its merits?—Yes, when we have dealt with a number of cases we may be able to formulate some rule for our guidance, but until then we can say nothing.

637. Suppose a case in point; there are a number of Charity Trustees who have school buildings which have to be used for purely educational purposes; if the trustees were to apply to your Board for leave to hand over to the Parish Council the school building, you would consider that on its individual merits; you would not have any fixed policy on it?—Not at first; we should have to look all round.

Chairman.

638. It would guide us to know what view you would take of the Act?—My answer must be that we have not had time to consider anything about it; I should be most unwilling to say a word about the Act at present.

Mr. *Strachey.*

639. But the trustees of charities would now be at liberty to make application to the Commission for leave to hand over such a building to the Parish Councils, and it would then have to come before the Board for decision?—I hope the Committee will not ask me to pledge my Board to any course of dealing with an Act which has only been passed two months. We are under the strict control of Parliament in this matter, and we shall only do to the best of our ability what Parliament has told us.

640. I only ask about what is discretionary?—If Parliament has given us a discretion I think we must exercise it according to the surroundings of each case, and must hear both sides. We are in a judical position in this matter, and must hear what both sides have to say, and we could not formulate a rule till we have had a considerable number of cases.

641. You would not consider it enough for the trustees to pass a Resolution asking you to take the building over; you would require to consider the whole circumstances?—Speaking at this distance of time from the passing of the Act, I do not think we could take any other course.

Friday, 27th April 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Donald Crawford.
Mr. John Ellis.
Mr. Howell.
Mr. H. L. W. Lawson.
Mr. Oldroyd.
Sir Stafford Northcote.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

Sir HENRY LONGLEY, K.C.B., re-called; and further Examined.

Sir *Stafford Northcote.*

642. I PRESUME that you would claim on behalf of the Charity Commission that it is not opposed to reform in the abstract?—Yes, I should claim that with very little hesitation. We have been accused on the other hand, I think, of being rather too fond of reform. As regards reform by means of legislation, we promoted three Bills, as I said last time, in 1878, 1881, and 1883. Since then there has been a Bill (which I omitted to mention last time) before Parliament, introduced in 1890 by Mr. Rathbone, in the preparation of which our office aided him considerably.

643. The second question I had intended to put was a question referring you to page 2 of your evidence. I wanted to know whether you could tell the Committee what had been the general attitude of the Board towards schemes for reform; what Bills have been proposed and brought forward of recent years either by Government or by private members, at the instigation, or with the concurrence, of the Charity Commissioners; and any of the most salient points of those Bills to which you would wish to refer?—I have all the Bills here.

Chairman.

644. Would you mind giving them *seriatim* in a list; it is more convenient to get them all together, giving the mere dates, I mean?—The first Bill to Amend the Charitable Trusts Acts was of the date of 1871.

645. I mean since the last Committee?—There has been none since the last Committee except Mr. Rathbone's.

646. Nothing since the Committees of 1884 and 1886?—Nothing since the Committees of 1884 and 1886.

Sir *Stafford Northcote.*

647. Is not that rather attributable to the fact that you received so little encouragement in the promotion of other Bills, that that accounts to a considerable extent for the fact that you have stood comparatively still of recent years in that matter?—That is so.

Sir *Stafford Northcote*—continued.

648. I am rather anxious to bring out the general attitude of the Commission towards questions of reform, and the chairman is of opinion that I might ask you to say very briefly, the principal Bills say since 1860 that have been brought forward at the suggestion of the Charity Commission?—The first Bill was brought forward in 1870 by Mr. Winterbotham and Mr. W. E. Forster.

Chairman.

649. Will you mention whether that was a Government Bill?—That was not a Government Bill; and that was brought in before my time at the Charity Commission, and I can tell the Committee nothing about it, except that it did not become law. Then we come to the Charitable Trusts Bill of 1878, which was brought in by Lord Chancellor Cairns; that was brought in at our suggestion, and we prepared it in concert with the Lord Chancellor himself. The next Bill was a Bill brought in in 1879 to provide for the taxation of charities.

Mr. *Donald Crawford.*

650. Was the 1878 Bill passed?—No; I am speaking now entirely of Bills that are Bills, and nothing more. The Bill of 1879 was introduced by the Government of the day to provide for the taxation of charities, to meet the cost of the Charity Commission. Then we come to the Bill of 1881, brought in by Lord Chancellor Selborne; that, again, was suggested by us, and prepared by us in concert with the Lord Chancellor, who took a very active part in its preparation.

Mr. *Howell.*

651. What was its title?—"Charitable Trusts Bill, 1881."

652. What was its object?—I shall mention one more Bill, the object of the three Bills was identical. We come now to the Charitable Trusts Bill, 1883. That was brought in by the same Government. That, again, did not pass. That was the Bill which the Committee of 1884 inquired

Mr. *Howell*—continued.

inquired into, and on which my evidence before that Committee was mainly based. That concludes the list of Government Bills; and since the date of the Committee of 1884 there has been no Bill except the Bill brought in in 1890, as the Charitable Trusts Bill, introduced by Mr. Rathbone, Mr. Thomas Ellis, Mr. Cozens-Hardy, and several other Members. The object of the three Government Bills of 1878, 1881, and 1883 was mainly, and in the first instanee, to remove the 50*l.* limit. The next most important object of these Bills was to provide, as has now been done by the Charities (Recovery) Act (of which the Committee are aware), for the protection of charity property. Another object was to give the Charity Commissioners more control over the appointment of trustees, so as to ensure due publicity in the appointment of Trustees of Charities. Then there were some provisions enabling the Charity Commissioners to go beyond the doctrine of *cy-près* in certain limited cases, and for dealing with Charities regulated by Act of Parliament. There were also provisions in those Bills for enabling the Charity Commissioners to institute in special cases an audit of the Accounts of Charities.

Sir *Stafford Northcote.*

653. We do not want to go in very great detail into these Bills; they came to nothing, I understand?—None of them came to anything.

654. Not through your fault?—No.

Mr. *Lawson.*

655. They covered your recommendations made in 1884, did they not?—Yes; they were all based on our recommendations.

Sir *Stafford Northcote.*

656. May I take it that you hold still the view which you expressed in 1884, in answer to Question 149 of your evidence, that "the Charity Commissioners in several of their Reports have stated that they have submitted several schemes to Parliament, and that in consequence of having no direct representation in Parliament, and nobody being interested in the passage of the Bill, they found it was impossible to carry the schemes through"?—That answer applied, I think, to Schemes and not to Bills.

657. But the same answer would apply to Bills, would it not?—The same answer would apply to Bills in a great measure.

658. With regard to your evidence of Wednesday, the honourable Member for Lanarkshire asked you with regard to the Act of 1860, prohibiting your acting judicially; have you any remarks to make as to that?—I was referred by the honourable Member to Section 5 of the Charitable Trusts Act of 1890, as indicating that our Board should not deal with questions that were fit to be referred to a Judicial Court. I am afraid I had forgotten at the moment that that section had been the subject of a decision by the late Sir George Jessel. The point was taken by him in the case of *in re* Burnham National Schools (L. Rep. 17 Equity p. 241).

Sir *Stafford Northcote*—continued.

It was suggested that it was not right for the Charity Commissioners to take upon them, in view of that section, matters which might be better dealt with by a judicial court; and he says, "the meaning of that section I should have thought to be plain and obvious. It is that the Charity Commissioners should not be compelled to take upon themselves the exercise of the jurisdiction conferred by the Act in any case in which they considered that it could be so much better dealt with by a judicial court that it would be improper for them to exercise that jurisdiction. It was not that they might decline the jurisdiction altogether in any case in which they might consider they ought not to exercise it, that would have enabled them to repudiate the jurisdiction, but it was that they might decline to exercise it in the cases which, for the reasons named, or for other reasons (meaning for special reasons of some kind, probably of a similar kind), they might consider more fit to be adjudicated on by a judicial tribunal;" the effect of that being that it was within our discretion to assume jurisdiction in those cases if we thought fit.

659. To go to another matter: you have given us a great deal of evidence on the question of auditing accounts, and I do not want to travel over the whole ground; but I should like to ask whether you think that much of the discontent, whether it be well or ill grounded, that exists against the Commissioners might be removed if charities accounts could all be audited and vouched for by your Department. I refer you to No. 1277 of the Minutes of Evidence of 1884; and I should like to know whether this would entail much extra cost?—I feel sure that a great deal of the discontent which is felt is due to the want of sufficient publicity of charity accounts. Where charity accounts are thoroughly published the discontent with the administration of charities is certainly less in my judgment.

Chairman.

660. Publicity is the essential thing?—I think so. Trustees sometimes get into great trouble quite unnecessarily by making a mystery of their accounts.

Sir *Stafford Northcote.*

661. But do not you think that some reform in the system of audit is also necessary?—I think an audit certainly should be required.

662. You can have no security that the proper auditors are always employed by trustees of small charities?—No, I think not. I have always thought that if Poor Law funds, which to a certain extent are the funds of the locality raised by rates, are subject to such a stringent audit, it is almost an *à fortiori* case that charity accounts should be audited.

663. Do you think that this could be done without much extra cost to your Department?—I think a general audit of charity accounts would be a serious matter. It would have to be conducted locally; it could not be done in London; I think it must be conducted, like the Poor Law audit, in districts. The special audit that

Sir *Stafford Northcote*—continued.

that I mentioned in my evidence of 1884 could be conducted without great expense in particular cases where we thought it necessary; but a general audit would be a serious matter.

664. With regard to charities over 50*l.* in amount, I do not know whether you have anything to add to your Wednesday's evidence. I will ask you more particularly if you see any objection to the carrying out of the recommendation of the Committee of 1884, paragraph 11, as far as the words "Schemes under the Endowed Schools Acts"?—No; I have always hoped that that recommendation might take effect. Ever since that recommendation was made we have considered that the matter was more distinctly in the hands of Parliament and the Goverment of the day than it was before. As I said on Wednesday, we have not considered it our duty to be so particularly forward in the matter as we were before, having this Report before Parliament.

665. With regard to the *cy-près* doctrine, have you anything to add to your Wednesday's evidence or to the evidence you gave in 1884 at Questions 1222 to 1285. May I ask if I am right in supposing that the general tenour was that some amendment of the Act of 1860 would be advisable so as to define more clearly the powers of the Commission with regard to the establishment of *cy-près* schemes?—That part of my evidence referred to a clause in the Bill of 1883 and to similar clauses in other Bills, which was intended to give us power to go beyond the doctrine of *cy-près*. In this view we have sometimes thought that while Section 30 of the Endowed Schools Act allowed us to go beyond the doctrine of *cy-près* for educational purposes, it seemed rather strange that we should not be allowed to go beyond that doctrine for purposes at least as beneficial, namely, eleemosynary purposes; and this provision was intended to enable us in certain specified cases so to go beyond the doctrine of *cy-près*; but it was a limited provision. I should certainly wish to endorse now what I said on that occasion.

666. Then will you look at the answer to Question 305 of 1884; you are legally bound to shape your new schemes as nearly as possible in accordance with the testator's original views?—Yes; having regard to change of circumstances, meanwhile.

667. You have not a free hand in the framing of such schemes, and I presume no change in your powers under this head would result from a change in your position towards Parliament without fresh legislation by Parliament?—That is so.

668. Your only claim, therefore, with regard to those *cy-près* schemes is not that they are the best ideally, but that they are the best you can make under your limited powers?—The best we can make, we hope and believe, under the doctrine of *cy-près*; and in view of the great difficulty of carrying schemes through, we often have to make schemes not as useful as they might be in order to conciliate local opposition.

669. Will you look at Answer 360 of your Wednesday's evidence. The honourable Member for Dewsbury asked, "In the case of very ancient trusts, made at a time when the whole body of the community were practically adherents of the Church of England, is it not the fact that beneficiaries, who are not now adherents of that Church, are excluded from the benefits of the charity." All that I want to get out is that those are not cases sanctioned by you, and that if such cases exist, they must either be cases of charities under 50*l.*, where nobody has taken the trouble to communicate with you, or cases of charities over 50*l.* where you are not authorised to interfere without an application from the majority of the trustees?—Yes, that would be so. Those cases arise where there are no schemes as a rule.

Mr. *Oldroyd.*

670. What I wanted to bring out in that question was whether in making schemes for the class of trusts there named, a broader latitude would be given for the disposal of the funds of the trust, or whether those funds would under the new schemes be confined to the adherents of the Church of England?—Certainly not in the case which you put, being that of a trust for the benefit of the inhabitants of the parish at large; we should recognise no distinction whatever in our scheme.

Sir *Stafford Northcote.*

671. Then may I refer you to Question 1237, in the evidence of 1884, and also to Question 1253. A good many questions have been asked you as to local bodies framing schemes; as a matter of fact, I believe that you do, or are prepared to, consult them before making schemes; do you maintain your view as expressed in reply to those two questions; is it your opinion that identical classes of charities might be applied in very contradictory fashions in different counties according to the feelings of the county council that might exist in different parts of the country?—I think, as I said in 1884, there would be a great risk of want of uniformity dealing with charities in that way; and might I add, as to co-operation with county councils, that I had forgotten when I was asked on Wednesday about our dealings with county councils, that we had soon after the passing of the Local Government Act establishing county councils, passed a resolution that all county councils wishing to have notice of our schemes should have them; and I find that eight county councils, including the County Council of London have applied.

Chairman.

672. Did you communicate that Resolution in any way to the county councils?—I do not think that we did; but I should like to say that I should be very unwilling to communicate schemes and notices to county councils without their asking for it, because I imagine that some county councils are not at all desirous to be troubled with such matters; I have some reason to believe so; and as regards our desire to co-operate with local authorities, we have more than

Chairman—continued.

than once in our annual reports expressed a hope that new local authorities might be established in order to facilitate our work. It has always been our view that a system of local authorities extending all over the country, such as there is now, might materially help our work. I may refer to the 38th Report, paragraph 15, for a statement of our views as to the strength which we should expect to get from the establishment of local authorities throughout the country.

Mr. *Lawson.*

673. Would it not be a good thing to let all the county councils know that you were willing to supply them with schemes?—I see no objection to it.

674. And in the future not only the county councils, but the parish and district councils too, in regard to charities that affect their districts?—Yes, I see no reason against that at all; in fact, I am not sure that the new Act does not provide for it. I am informed that in our annual Reports we have more than once expressed our willingness to communicate schemes in that sense.

Sir *Stafford Northcote.*

675. The Chairman thinks I had better continue the line of questions that I was putting to you. Are you satisfied with your powers of subsequent inspection of the working of schemes that have been made by your Board?—Yes, our powers of inspection, I think, are quite complete. The only hindrance to exercising them is the amount of staff.

676. But that is a very serious hindrance, is it not?—Yes, more staff is required to do it.

677. Then, with regard to the question of appeals against your decisions, I should like to ask whether appeals are frequent, and whether in your opinion the powers of appellants might be enlarged?—Appeals against our decisions to the Chancery Division are very rare indeed; I do not suppose that in the 34 years that have elapsed since 1860, when the power was given, there have been half-a-dozen appeals; and as regards the power of appeal, I do not remember any case of the Attorney General refusing leave. I do not think that the right of appeal is unduly restricted; and the Attorney General, of course, is directly responsible to Parliament in that matter as well as in others.

678. Then with reference to the question of local representative trustees: I suppose the justification of your action with regard to their appointment is really condensed in your 40th Report; paragraph 35 I refer you to particularly. I do not know whether you have any further general evidence which you wish to tender; and may I, in connection with this question, ask whether an answer was not given to the honourable Member for Maldon in the House of Commons last year dealing with the appointment of trustees?—Yes. I should wish to refer specially to the 35th, 36th and 37th paragraphs of the 40th Report, to which the honourable Member refers; and to the answer to which reference is made is to be found in the 19th vol. of the present series of Hansard's Parliamentary Debates, page 491; and without troubling the Committee with it at length I may perhaps say that in everyone of 42 schemes constituting bodies of trustees which were made by us during the six months ending 31st October 1893, provision was made for the election of trustees respresentatively.

Sir *Stafford Northcote*—continued.

Chairman.

679. Of course the return that we are to have will cover that?—Yes. The return will be different; it is for certain counties; this relates to schemes everywhere for a given period.

Sir *Stafford Northcote.*

680. Do not you think that in the case of trustees of charities of over 50*l.* in value they are sometimes shy of having recourse to the Commission for fear of losing their powers and that they might be less inclined to apply for schemes if they feared that under such schemes their powers would be swamped by a majority of local representatives?—Yes. I think that our dealing in the way of appointing representative trustees has had some deterrent effect, as we notice in the 35th paragraph of that 40th Report, to which allusion was made just now; and for that reason we have thought it best, in order not to deter people from access to the jurisdiction, to introduce that principle gradually, as I said the other day.

681. Your view would be that you have, or will have as time goes on, enough local representatives under the Local Government Act of 1894 to ensure full publicity being given to the action of trustees of charities?—Yes, I think so.

682. One question with regard to question 60 of the first day's evidence: The difference of position between the Charitable Trusts Commissioners and the Endowed Schools Commissioners is, is it not, that Sir George Young and Mr. Richmond only hold office under the Expiring Laws Continuance Act, and that the idea is that their services will sooner or later terminate; and in that case an economy on that side of your office would be effected?—Yes; the terms of their appointment are prescribed no doubt with reference to the temporary nature of the Act under which they are appointed.

683. Then you have been asked a good many questions with regard to the possible effect upon your Department of any changes, and I think on this occasion you have expressed a view that if your Parliamentary position is to be changed, you would rather be taken over *en bloc*, so to speak, by one Government Department. May I refer you to your answer to question 1303 in the evidence of 1884; that answer rather indicated an idea in your mind, I think, that your Charitable Trusts work might be taken over by the Home Office and the Endowed Schools work by the Education Department?—I think I can explain that by saying that that answer had reference to that very small class of cases which I mentioned just now, in which we wished to go beyond the doctrine of *cy-près* as the Endowed School Acts do. The answer had no reference whatever to the taking over of what has been called our judicial work under the general law of charities

Sir *Stafford Northcote*—continued.

charities, by any Public Department; it was a strictly limited answer, limited to a detail of a section in the Bill of 1883 dealing with a proposal to create a new statutory jurisdiction, like that of the Endowed Schools Acts.

684. But you are now of opinion that if a change in your Parliamentary position is to be made, one single minister should be responsible, both for your Charitable Trusts work and for your work under the Endowed Schools Acts?—I think so.

685. Now with reference to your Parliamentary position: I suppose the Department whose position corresponds to the Charity Commission has closely at all events as any, would be the Civil Service Commission?—Yes, I suppose it does, except so far as they may be more directly under the control of the Treasury; but I really am not aware how that is.

686. Of course they have no Parliamentary Commissioner?—Well, they have had a Parliamentary Commissioner, at times. The present Lord Strafford was the Parliamentary Commissioner, as I have been reminded.

Chairman.

687. Was that in the House of Commons?—I think it was always when he was in the House of Lords, first as Lord Enfield, and since as Lord Strafford.

Sir *Stafford Northcote.*

688. The Secretary of the Treasury for the day is bound to uphold the estimates of such a Department as the Civil Service Commission or the Woods and Forests, is he not equally bound to maintain your estimates through Parliament?—I suppose so; they are signed by the Secretary of the Treasury; but I am speaking of a question that I am not conversant with.

689. Therefore you are not destitute really of Parliamentary momentum?—No; I suppose we may call upon the Government of the day.

690. Then with reference to your work under the Endowed Schools Acts, your schemes are referred to the Education Office, and occasionally, I take it, criticised by them; you have, therefore, the Vice-President of the Council directly interested in your defence?—He is directly interested in all our Endowed School schemes because they really are his scheme, not ours. We send them to him, and if they are to go on he must make them his, and, when they come before Parliament, they are his schemes.

691. I think some questions were asked you on Wednesday by the Under Secretary for the Home Office with regard to the distinction between your Charitable Trusts work and the Endowed Schools work; I do not know whether you have any further remarks that you wish to make on that subject?—I should like to say this: That honourable Member put to me a good many questions as to educational matters; I was anxious, as far as I could, to indicate to the Committee that my answers had no reference to the doctrine of *cy-près*; I was only afraid that some confusion might arise because the honourable Member, in putting questions to me, used the word *cy-près*, although I think he explained that it was not used in a strict sense; but I should be anxious to have it on the notes that those answers of mine to the honourable Member were entirely beside all questions arising under the doctrine of *cy-près*.

692. With regard to the suggestion that a new and high Parliamentary official should be created, of course schemes are being perpetually framed at the Commission, and those schemes no doubt form precedents for future schemes?—Yes.

693. You gave us some statement that you had about 500 new charities annually to deal with on an average; could you say about what proportion of those are old charities that you discover, and what number are new charities that are founded?—I am afraid I could not give any accurate figures, but I should say quite a small fraction are old charities.

694. And I suppose that charities of modern creation are easier to deal with than old charities?—Charities of modern foundation as a rule do not require dealing with except as regards accounts; of course they are equally bound to send accounts with old charities, but they do not require remodelling like the old charities. I am reminded that, with regard to that 500, it is stated in the 14th paragraph of the 41st Report that they are all new charities, but the number of old charities discovered is small.

695. And I presume the limit is pretty nearly reached of old charities that are likely to be discovered?—We continually have a few coming in; the number is not large.

Chairman.

696. When you say "a few" could you translate that into figures?—I am afraid I cannot at present.

Sir *Stafford Northcote.*

697. Do you think, therefore, that there is scope for the existence of a high Parliamentary official, who would have to work within a very narrow groove, and on a great mass of small subjects?—No; I should not think there was enough work for him to do.

698. Some comparison has been made between the old Poor Law Board and your Commission; now that the Poor Law Board has been transformed into the Local Government Board, its action has been much widened?—I suppose the Local Government Board has three times as large a staff as it was even 25 years ago, when I belonged to the Poor Law Board.

699. Therefore you could not, by creating a high Parliamentary official, place the Charity Commission on the same footing of importance as the Local Government Board?—No, I think not.

700. Then I take it that the board would naturally not wish party politics to be introduced into the administration of charities. I do not know whether your attention has been called to some remarks of Lord Granville on the subject in 1863, when he was Vice-President of the Council?—Yes, I have the reference here; and I may say that we spend a good deal of time in deprecating the introduction of politics into the administration of charities, particularly municipal charities. We have a great deal of difficulty in preventing that.

The

Sir *Stafford Northcote*—continued.

The reference to "Hansard" which the honourable Member makes is volume clxix., page 184; the date is February 1863. The Debate was one upon the Report of the Popular Education Commission over which the Duke of Newcastle presided, and some proposals were made in the Report of that Commission for transferring some of the Charity Commission work, particularly educational work, to the Privy Council in some way or other. Without reading the passage at length, I might read this: "Lord Granville observed that the Charity Commissioners had now the advantage of the presence of the Vice-President of the Council, who formed a sort of link between them and Parliament, and he doubted whether Parliament would approve of the transfer of the functions of a *quasi* Judicial Board to an executive and administrative department of the State like the Privy Council. Other suggestions which had been made, such as an easy method of registering endowments, were of much importance, and were under the consideration of the Government; but he did not think it advisable that the powers in question should be transferred entirely from the Charity Commissioners to the Department over which he had the honour to preside."

701. I will not ask you to read further quotations, but a speech similar in character was made by Mr. Lowe in the same year?—Yes.

Chairman.

702. Both those were in 1863, were they?—Yes, they were both on the Report of the Duke of Newcastle's Commission. The reference there is Volume clxxi., page 723. It is a long passage; I had better not read it.

Sir *Stafford Northcote.*

703. Do not you think that the creation of a high Parliamentary official would increase the risk of making the getting hold of charities, and the possible diversion of their application, a matter of party contest?—Yes, I should think there would be a danger; there is a considerable tendency in that direction already; I suppose that such a change would tend to aggravate it.

704. It is suggested that at the present moment there is no minister of much Parliamentary importance who is specially interested in your defence; may I suggest to you that that may form a strong reason why you should frame such good schemes that nobody shall have any motive to attack you?—Yes, the weaker we are, I suppose the more careful we must be.

705. With reference to a question put by the honourable Member for Cirencester if the Charity Commission were made more of a political department, would not there be a risk that the local opposition to schemes would be very much stimulated?—I suppose the more politics had to do with it the more friction there would be.

706. Will you look at your answer to Question 224 in the first day's evidence; do you think there would be a danger that no such Standing Committee as is suggested in the Report of the Committee of 1884 could really be of a permanent character; and might not a state of circumstances arise under which you would in establishing a scheme have to fight your way through local opposition; and, either before fighting through such local opposition or afterwards, have to fight another battle in the Standing Committee, which would very materially increase the time necessary to establish a scheme?—Yes, the erection of another barrier would no doubt make the establishment of the scheme a longer business.

707. Do not you think that there is a risk that a good many of your critics, I will call them who now have considerable difficulty in getting at you, might very easily get at their respective representatives on a Standing Committee, and might endeavour to force party fights on a good many points of detail in your scheme that are at present passed without such opposition?—It would be easier to attack on points of detail than it is now; because questions can hardly be asked in the House on points of detail in a scheme.

708. I am afraid there was some not inconsiderable truth in what Mr. Lowther said in the debate preceding the appointment of this Committee, and that the Charity Commission is somewhat severely criticised from two points of view, both by those who think it is somewhat too favourable to the Established Church, and by others who think that it is not just to the Nonconformist bodies?—Yes, I think that on that point as on other the criticisms come from very opposite quarters.

709. Do you think it would be possible to establish anything like a Standing Committee, one that would, not be materially modified according to which political party might be in power at the time?—I cannot answer that question very well; I do not know how those Committees are constituted; but I think our work is work of such minute detail that it would be almost intolerable to any Committee to have to consider it.

Mr. *Howell.*

710. Is the recommendation with respect to audit the only recommendation amongst those mentioned in paragraph 18 of your Memorandum which has not been carried out?—Yes, the only one mentioned in paragraph 18 of the Memorandum which has not been carried out by subsequent legislation.

711. What guarantee is there for the exactitude of the accounts; what guarantee I mean have the Charity Commission for the exactitude of the accounts submitted to them?—The accounts are frequently audited by auditors appointed by the trustees, and the only other security is our own examination of them in cases in which our attention is called to them. We frequently have to examine them, and then if necessary we send down to the locality to examine them; that does not often happen; but we generally manage to get to the bottom of the accounts when our attention is directed to them.

712. You feel satisfied that you ultimately get to the bottom of the account?—Yes, in cases in which our attention is specially directed to them. I do not mean to say that we do not institute an independent examination of some other accounts, but not of all. As I said the other day, that work is too large for us to undertake, as we have told Parliament frequently.

713. You have to be satisfied with the accounts returned

Mr. *Howell*—continued.

returned to you by the trustees?—No, I would not say that; because if any account comes before us we have every power of inquiry.

714. To institute an inquiry?—Every power to institute an inquiry. We have no power to audit.

715. Have you often occasion to institute inquiries in consequence of the accounts not giving you satisfaction?—Yes, we frequently write to trustees upon points in their accounts.

716. And upon that do you get satisfactory replies, or have you in any case to institute an inquiry?—We have in some cases to institute an inquiry, and in some very extreme cases we have to send a case to the Attorney General to bring before the Courts.

717. Does that occur often?—That does not occur very often.

718. But it occurs often that you have to send for further accounts?—Very frequently. The accounts are often sent up by illiternte people and people not skilled in making accounts. The accounts of these small charities are sent up in a very rough way sometimes.

719. Are they fully and freely rendered when you ask for them, as a rule?—Almost invariably when we ask for them; in fact, we hardly ever have a refusal to render accounts except in a case in which the trustees of the charity maintain that the charity is exempt from our jurisdiction.

720. How many certified charities have you on your list at the present time; in 1884 you stated the number as 36,000?—We state in our 41st Annual Report which is before the Committee, that we believe the number to be about 60,000.

721. That is now?—That is now; that is what we say in this 41st Report. That is quite an outside estimate I should think.

722. You gave also an estimate of the total income at that time as 2,200,000*l.* a year; can you state what the total income is now?—The honourable Member is referring to the Digest. That information is given from the general Digest. In answer to the question I may say that there has been no general review of charities since the date of that Digest; therefore I cannot give any further information on that head.

723. I will put a question which rather covers ground raised by an honourable Member who has already examined you. It is stated in that Digest that 4,805 charities have been founded since the inquiry of 1818 to 1837; or is it since the completion of the Digest in 1876?—Could you give me the reference to the 1884 Report.

724. It is on page 5 of the Report; in the second paragraph you will see: "Of these a large number had escaped detection by the Commission of 1818-37; and 4,805 charities, with an income of 227,000*l.* per annum, have been newly founded since the completion of that inquiry"?—"That inquiry" refers to Lord Brougham's inquiry.

735. Can you tell me whether many have been founded since that paragraph was written?—A very large number—many thousands.

726. And do you still adhere to what was stated in that evidence and in the Report, that

Mr. *Howell*—continued.

the changes that have been made in the law have not tended in any way whatever to prevent well-disposed persons leaving charities as heretofore?—I do not think anything would prevent people from founding charities.

727. But the proceedings of the Charity Commission have not, in your estimation, tended to repress that disposition?—We think not, because hundreds of new charities come before us yearly.

728. You remember, perhaps, that Mr. Thomas Ellis, who was then the Parliamentary Commissioner of the Charity Commission, said in answer to a question of mine, in February this year, that 24,000 charities had neglected to send in their accounts; can you give some explanation of that?—I do not know exactly to what those figures refer, but those figures are all very misleading without explanation. A very large number of the total amount of charities have no income whatever. We have thousands of elementary schools without any income whatever; they are not bound to render accounts, and a considerable number are general charities that are not so easy to get at; and with regard to some of those general charities, and, in fact, of the other charities, we have on record that they dispute our jurisdiction. The charitable societies in London, many of them are on our books; almost all of them, more or less, dispute our jurisdiction. The Clergy Orphan School, at St. John's Wood, is at present disputing our jurisdiction; the question was decided last week. That, again, accounts for a considerable number of charities that do not render accounts. I believe that if we could (we shall some day), institute an inquiry into the number of charities in arrear with their accounts, we should find that there are not a very large number. We have not been in a position till the last two years fully to organise that department of our work, but steps have been in progress during the last two years which have already resulted, as will be seen, in our 41st Report, in our getting in 8,000 more accounts last year than we did a few years before; and I fully believe that in a year from the present time we shall be much more closely up.

729. But that does not quite answer my question; there seems to be a discrepancy between the actual number of charities and the large number of 24,000 named in the answer to my inquiry; can you give any explanation?—I cannot offhand, I am afraid. I must look at the answer and at the information on which it is based. I have no doubt that a very large number of charities had not rendered accounts up to that time, or a considerable number.

730. In answer to a Motion, you granted the return of certain charities in London; those charities were charities I presume that did not dispute your right to ask them to render accounts; but they simply did not render the accounts; they neglected to render the accounts?—That Return to which the honourable Member refers was of charities for the benefit of London, and although I have not the Return here, I think it shows that almost an infinitesimal number of charities had failed to render accounts.

731. But that number is very large in parts of

Mr. *Howell*—continued.

of the country, is it not?—The preparation of that Return has led me to believe that our accounts are much better up than was generally supposed.

732. Could you furnish the Committee with any statement with reference to the number of charities which do not return accounts as provided in the Statute?—I could not within any reasonable time furnish a Return of all; but I could for two or three counties, which perhaps would answer the purpose.

733. The answer given to me in the House of Commons was that 24,000 charities failed to make a Return; I felt that that was a very serious statement to make; I want to know what explanation there is of that; can you give any explanation to the Committee?—I am sure that there is an explanation, but I cannot possibly give it now without inquiry. I am confident that the number of accounts in arrear is not nearly so large as that, when you come to look into it, but I must remind the honourable Member that it is impossible, within any reasonable limit of time, to go into the detail of 60,000 charities to see whether they are subject to our jurisdiction, or whether all have endowments or not. It has been our practice to deal with our work as the Court does; we take each case as it comes; and we have not been called upon until quite lately to furnish statistics and a general view of our work. It seems now to be the wish of Parliament that we should do that, and I may say that we are taking steps to be in a position to say what particular accounts are in arrear, and I hope before long we shall be able to do so; but if the honourable Member would wish to know that as to one or two, or three counties I could do that probably in time for this Committee.

734. What I should like, and what, if I may say so, I think the Committee would like, is that this should be cleared up. The statement made in the House was that 24,000 charities failed to make a return; that is serious; there is a feeling that a very large number of charities fail to make a return; what I should like is that this should be cleared up in some way or another in a satisfactory manner; and that you should let us know, as far as possible, the extent to which charities fail?—I will endeavour to do that; but the difficulty is enormous, because we are consolidating charities very much and that throws out the account. I believe that in these answers we have not done ourselves justice, for that reason.

735. I was coming to that; some charities really have not separate accounts?—Yes; that arises in this way: we consolidate 10 or 20 charities under one scheme, and when that scheme is made there is only one account, and comparing it with previous years, there would be only one account instead of 10 or 20.

736. As, for instance, at Norwich; there they are under one scheme, are they not?—Not all the Norwich charities; there are two or three groups of charities each under one scheme.

737. Then they would be comprehended in one account?—Each group in one account.

738. You cannot tell us then how many accounts of charities were not sent in during last year?—No, I could not tell you that One main element of uncertainty is that there are so many charities which are on the register which have no accounts to send in.

739. But do you call attention in any way whatever in your annual report to the omission of accounts?—We always state how many accounts are sent in, and this year we have stated that number total of charities at 60,000.

740. You do not call attention to the fact that a number of accounts are not rendered?—I do not think we have done so of late.

741. And yet the Act of Parliament provides that the accounts shall he rendered?—Certainly. We have frequently called the attention of Parliament in our Reports to that fact.

742. You have a power to compel the production of accounts?—We have.

743. In what way do you exercise that power?—By requiring accounts whenever we want them.

744. And failing to get them, what then?—We have never once failed in 41 years.

745. Never failed to get in the accounts?—Nover once failed when we wanted the accounts; our powers are quite sufficient.

746. How do you account for it that there are accounts now outstanding, not rendered?—Because we have not asked for them. I thought I made that clear; that we ask for them when we want them for any particular purpose. Somebody comes and makes a complaint, for instance, and then we want them.

747. Does not the Statute provide that they shall render accounts?—Yes, but it does not provide that we shall require them. We have over and over again explained this to Parliament in our Reports, and have given full notice to Parliament on that point.

748. Is it not your duty to require them?—If for the purpose of the good administration of the charity they are wanted by us, it is our duty, and we do.

749. How would you know that you ought to require them?—If a complaint is made, or we happen in any way to get knowledge of it. We know of defects in the accounts of charities in many ways; and the number of cases in which we ask for accounts in the course of the year is very considerable.

750. That is to say that the complaints must come, more or less, from those who are the recipients of the charities, or presume that they ought to be the recipients of the charities?—They often do, or from outsiders altogether, or sometimes from our Assistant Commissioners' Report.

751. I take it from your answers that excepting in very exceptional cases when you call in the Attorney General, you really do not exercise that power compelling the production of accounts?—Oh, yes, in a good many more cases than that. Calling in the Attorney General is the last resort; that is only resorted to in a very few cases.

752. Then I must put the question again. How is it that a large number have failed to render them?—I suppose because they are not asked.

753. And why are they not asked; is not that

Mr. *Howell*—continued.

that part of the function of the Charity Commission?—No, we have not considered it our function to ask for accounts of charities. We hope to be in a position to do it.

754. Do you consider that you have not the statutory powers?—We have abundant statutory powers.

755. Then why have you not used them?—Because the fact that the accounts are not in has not been brought before our notice. There is, as I said, a defect of organisation no doubt. That defect is in course of being remedied.

756. You put this down to defective organisation; that is to say, I presume really a want of funds or assistance of some kind to enable you to do that?—Our staff has not been so organised, and in the last few years great changes and improvements have been made in that respect.

757. The failure therefore you attribute to want of staff, in fact?—Yes.

758. Could you furnish to the Committee some statement with regard to the number of charities that have refused to send in accounts say during the last five years?—I suppose there are next to none that have refused to send in accounts; only in some cases in which they have disputed jurisdiction, like the Clergy Orphan School.

Chairman.

759. It is not refusing to render accounts, but refusing to acknowledge jurisdiction; is that so?—Yes. It would be very difficult to get them out; they are very few, but one would have to pick them out. It really would be a matter probably of individual memory to pick them out; we keep no record of these matters; I could remember half-a-dozen cases, I daresay. We deal with individual cases as they arise, and are always ready to answer any questions about an individual case; but we have not time to focus work in a way which enables one to answer these general questions.

Mr. *Howell.*

760. But you keep records, of course?—We have records of every individual charity; but for the purpose of answering such a question as is now put to me, we have not the information brought to a focus. Every item of particular information is there.

761. Can you tell me how many last year refused to send the accounts, or neglected to send the accounts?—As to those who neglected to send the accounts, that would take a long time to find out, because we should have to deduct those who had no accounts to send in; but, as I say, I should hope to be in a position, in time for the use of the Committee, to make a statement with regard to two or three counties.

Chairman.

762. Perhaps you could put that in through the Secretary when he comes?—It would be impossible by the time the Secretary comes; it is really very serious work.

Mr. *Howell.*

763. Parliament ought to know, I think, how many charities, which ought to send in their accounts by statute, neglect to send those accounts in to the Charity Commission?—We shall be in the position, I hope, before long, to do it, give that information; but I hope the Return made on the honourable Member's motion will go some way to show that as far as London goes.

764. But my information is that in the country the cases of neglect are far more numerous?—I suppose they are more numerous, and for that reason I will take one or two counties at a distance from London.

765. Can you now, or will you at some future meeting of the Committee, give us some indication as to where and how Mr. Ellis' figures of 24,000 were made up?—I shall be very glad to do it.

766. The honourable Member who was questioning you before me put some questions with regard to the representation of the Commission in the House of Commons. The honourable Member's questions seem to me to tend to this: Whether there would not be a danger of its having a political side. I should like to ask the question whether there is in reality any necessity for a representative in the House of Commons looking at it or treating it at all as a political matter. Would it not be treated as a matter of administration of charities?—I am afraid that is a question I could hardly answer. I suppose that everything in the House of Commons turns upon politics, if I may say so with all respect.

767. You think that having a representation on the Government of the day, more directly than, if I may call it, the present nominal representation, would give it a political complexion, and there would be the danger?—I do not think that the present system of our representation in Parliament tends to give our work a political complexion, because the Commissioner is not a member of the Government.

768. No, but I meant this: that the representative being a member of the Government would give it a political complexion which you think would be dangerous?—Yes, I should think it would tend to give it a more distinctly political complexion.

769. I presume that, when I was unfortunately absent, you have been asked some questions already with regard to the difficulties of getting schemes through the House of Commons. In the evidence of 1884, and in the Report of 1884, it is alluded to; difficulties not only with regard to the answering of questions in the House of Commons but carrying schemes through the House of Commons after they have been elaborated and prepared; have not some of those difficulties been removed by subsequent action; have you not more power of carrying schemes through without the consent of Parliament than you had previously?—No, I think not.

770. Are there not fewer schemes that require the sanction of Parliament than previously to 1884?—No; I do not think I could say that. A good many of those are Endowed Schools schemes as to which the Report of the Committee of 1884 had no reference. Of the schemes that come before Parliament, there have been as many since as before, I think.

771. With the other schemes you have few difficulties

Mr. *Howell*—continued.

difficulties so far as Parliament is concerned?—I do not think we have many difficulties so far as the Charitable Trust schemes are concerned.

772. The difficulty is with Endowed Schools schemes?—Our Parliamentary difficulties are mainly with the Endowed Schools schemes.

Chairman.

773. Perhaps it is only fair that I should ask you if there is any further point that you wish to clear up, without going into any matter at length?—I think the only point that occurs to me is this: I was asked on Wednesday whether, as our Endowed Schools work was subject to a political department, our Charitable Trusts work might not be just as well so subject; I should like to point out what I omitted to say then: that our work under the Endowed Schools Acts is purely statutory work; it is carried on within the four corners of those Acts of Parliament. The Charitable Trusts work is work which involves

Chairman—continued.

the administration of a large branch of the law of trusts; and the limits of that work are not to be found in any statute, but are scattered all over the text books and decisions on the subject. That would be the answer I should wish to give to such a question; drawing a distinction between the two sorts of work as regards the control under which they should be exercised.

774. That makes me ask you this question, whether anything has happened during the last week, since you gave that evidence, which renders it necessary for you to qualify or modify in any way your answer to questions Nos. 174 to 178 as to Parliamentary momentum; they were careful, deliberate answers, no doubt?—Yes, I should say that those answers were given as stating one side of the question. I wished to intimate that there was a good deal to be said on that side.

775. Which you had an opportunity of doing?—Yes.

Wednesday, 2nd May 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Freeman-Mitford.
Mr. Howell.
Mr. H. L. W. Lawson.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

Mr. DOUGLAS CLOSE RICHMOND, called in; and Examined.

Chairman.

776. YOU are an Endowed Commissioner?—I am a Charity Commissioner under the Endowed Schools Act.

777. Perhaps you will kindly state to us what your personal experience has been in the public service?—I was at one time employed on the Schools Inquiry Commission; and then throughout the existence of the Endowed Schools Commission, from 1869 to 1874. From 1875 to the present time I have been on the Charity Commission for the purposes of the Endowed Schools Acts, formerly as secretary, and for the last 10 or 11 years as Commissioner.

778. You have some returns, I believe, which you wish to hand in?—I have to hand in for Sir Henry Longley three returns; one return of cases dealt with under Section 30 of the Endowed Schools Act, 1869, since 1884 up to the close of 1893.

779. That return that you are first handing in relates rather to your department, does it not?—It does so. Secondly, extracts from the annual reports of the Charity Commissioners as to accounts of charities.

780. Those extracts were the ones that Sir Henry Longley mentioned in his evidence in chief?—Yes, he mentioned them in his evidence. And, thirdly, a Return of Orders made by the Charity Commissioners between the years 1885 and 1893. It is a "Classified Statement of Orders made by the Charity Commissioners during the period of 10 years from 1884 to 1893." (*The Witness handed in the Returns.*)

781. Will you kindly give us now what I may describe as the origin of the Endowed Schools Acts?—In the year 1864 Her Majesty appointed a Royal Commission to inquire into the schools not included in the scope of two previously appointed Commissions, one called the Public Schools Commission, and the other generally known as the Popular Education Commission, dealing with elementary schools. The whole field lying between those two extremes, the public schools on the one hand and the elementary schools on the other, formed the subject-matter of the inquiry of the Schools Inquiry Commissioners. They reported in the year 1868, and upon the recommendations of their Report, first of all, almost in anticipation, an Act was passed which may be called a suspensory Act; that is to say, an Act for preventing the acquisition of new vested interests.

Chairman—continued.

782. Will you give us the names of some of those who were on that Commission?—The Schools Inquiry Commissioners were a large body under the Chairmanship of the late Lord Taunton. It comprised the late Lord Derby, the late Lord Lyttelton, the late Lord Iddesleigh (then Sir Stafford Northcote), the present Bishop of London, Mr. William Edward Forster, and other men of position and experience in matters of education.

783. Before you come to the Endowed Schools Act of 1868, which is what you called the Suspensory Act, will you give us a little indication of what the suggestions of that body, the Schools Inquiry Commission, were?—The Schools Inquiry Commissioners made very elaborate suggestions as regards the organisation of schools, and suggested a machinery by which the reforms they contemplated should be carried out; to put it briefly, their machinery consisted of two elements, a central official body and provincial bodies working with them, and having, for the most part, the initiative in the work.

784. Now, to take the central body, what was the proposed constitution of it?—The Schools Inquiry Commissioners proposed that the central body should be the Charity Commission, with the addition to it of members specially qualified for educational work.

785. Then, with regard to what you call the local authorities or provincial bodies, how were they to be constituted, and what were to be their powers?—The Commissioners were not very clear how they should be constituted. They made alternative suggestions; one was in favour of district commissions and district commissioners appointed by the central authority who should work in the districts, and so send schemes up to the central authority; then, as an alternative, in order to obtain more local action, they made suggestions

Chairman—continued.

suggestions for composite local bodies, there being then, as is well known, no county representative authority.

786. I suppose all their proposals are set forth fully in their Report of 1868?—They are set forth fully in the first volume of the Report in the seventh chapter. Page 633 gives the central authority; page 637 discusses provincial authorities at considerable length.

787. Now, will you come to the Endowed Schools Act, 1868, the Suspensory Act; have you anything to say in respect to that?—Merely to say that so strong was the feeling created by the disclosures of the Report that immediately in the year 1868, the year in which the Report was issued, Parliament passed, I believe without opposition, an Act for suspending the acquisition of new vested interests under trusts for endowed schools.

788. That was merely a suspensory Act?—Merely a suspensory Act; but it still has force in this way: that masters or others interested in certain ways in endowed schools still exist who were appointed before that Act. Some, therefore, of the masters with whom we have to deal even now have the protection of that Act; that is to say, if they hold on a freehold tenure that freehold tenure still remains subject to any scheme that may be established.

789. We may take it that that Act of Parliament gave no body of persons any new powers?—No, it did not give any new powers.

790. Then we come, do we not, to the Endowed Schools Act, 1869?—Yes; that I should call the principal Act.

791. Will you give us, in the first place, what we may call the intention of the Government in introducing that Act?—In moving for the Second Reading of the Bill in the House of Commons, the late Mr. Forster delivered a speech at great length——

792. Was he Vice-President of the Council?—At that time he was Vice-President of the Council. And coming to the point of the machinery by which the reforms contemplated by the Government were to be carried out (it is in "Hansard," Vol. CXCIV.; I propose to read a short passage at page 1370) Mr. Forster said: "The Government carefully considered the question as to the body to which it would be best to give the power we ask for in this Bill, and after the closest consideration it seemed wisest and safest that we should not shirk responsibility in this matter; but if the Government of the day undertook it, it is impossible for them to do it without special assistance. The whole means of procedure, then, are these: It is the Government of the day, working by special help. The Commissioners, as described in the Bill, who are to propose the reforms, are merely officers assisting the Government, and the mode in which they are to work I will briefly describe." Then I may omit some passages; and he goes on to say that: "the scheme thus finally proposed by them" (that is the Commissioners) "is to be submitted to the Educational Department of the Privy Council in which I have a subordinate place at present. The responsibility will rest on the Government whether they approve the scheme. If they do approve it they will lay it

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before Parliament and it will become law, if not objected to within 40 days by either House. Everything the Commissioners do will be mere waste paper till it has passed the ordeal of Parliamentary assent."

793. That gave distinct Parliamentary control and sanction?—That was clearly, I think, the intention. I do not know whether I may read a very short passage from Lord Ripon's speech, who was Lord President of the Council, when the Bill reached the House of Lords.

794. If you please?—This is in "Hansard," volume CXCVII., page 609. He says "we thought it better to entrust the preliminary work to a single Commission. We felt however that Parliament would justly require for work of that description distinct Parliamentary responsibility." Further on he says: "The Bill provides that the schemes to be prepared by the new Commission shall be submitted by them to the Committee of Council on Education, who, if they approve them, will lay them before Parliament on their own responsibility. Thus there will be an officer of the Government in both houses responsible for any proposals that may be made." I think those two passages show that the idea at the time was, briefly, that in default of provincial councils to aid the central body in this matter, the Government itself was to take the prime responsibility and work, as Mr. Forster said, by special help.

795. So far as to the intentions of the Government as they were given by the Vice-President and the Lord President of the Council. Will you turn now to the actual Act as it received the sanction of the Legislature and the Royal Assent. First as to the general intention, you might quote us the preamble?—Yes, the general intention is perhaps best expressed in the preamble. It recites the appointment of Commissioners in 1864, to inquire into the education given in schools not comprised in the scope of certain other Letters Patent, and that they "have made their report and thereby recommended various changes in the government management and studies of endowed schools, and in the application of educational endowments with the object of promoting their greater efficiency and of carrying into effect the main designs of the founders thereof by putting a liberal education within the reach of children of all classes." That is the broad summary of the scope of the Act; and that is most effectively carried out in the Act itself by words in the 9th section to this effect: "The Commissioners appointed as in this Act mentioned, by schemes made during the period, in the manner, and subject to the provisions in this Act mentioned, shall have power in such manner as may render any educational endowment most conducive to the advancement of the education of boys and girls or either of them, to alter and add to any existing and to make new trusts, directions, and provisions in lieu of any existing trusts, directions, and provisions which affect such endowment, and the education promoted thereby, including the consolidation of two or more such endowments, or the division of one endowment into two or more endowments." I may just point out there that there is no reference in

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that section to anything like the doctrine of *cy-près*. On the contary, it starts broadly with the idea that existing educational trusts may be abrogated and new educational trusts substituted.

796. Without any such limitation as the *cy-près* doctrine; without any such limitation?—There are in the Act afterwards, of course, checks and limitations on the use of those powers, but the scope of the Act is first to give the widest possible powers of changing the trusts and making new trusts.

797. So much for the Preamble and Section 9. Have you anything to say with respect to other sections of the Act?—I should like to say that for making these schemes the procedure is set out in the Act, namely, that first the Commissioners must inquire; then that they must publish a draft of the scheme——

798. Would you mind referring to the sections?—By Section 32, after examination or public inquiry, the Commissioners are to prepare drafts of schemes. By Section 33 they are to print and publish these drafts for the information of all concerned. By Section 34 that publication is to run for a period of three months; that has since been reduced by subsequent amendment of the Act to two months. Then the following sections indicate that the Commission must consider all objections made to them.

799. What sections are those?—By Section 35 the Commissioners may make further inquiry with reference to the subject-matter of the scheme. By Section 36 the Commissioners are directed to consider all objections and suggestions, and an alternative scheme, if there be one, as defined in the Act; and then, if they think fit, to frame a scheme in such form as they think expedient, and submit it to the approval of the Committee of Council on Education.

800. That is so far as to the procedure for schemes?—Up to the point of our submitting a scheme to the Education Department. Then we are so far *functi officio*, though under a subsequent Act the scheme may come back to us.

801. Is that all you desire to say with respect to the procedure for schemes?—As far as our own action is concerned; but perhaps the Committee would like to know what is done with it after the scheme has reached the Education Department until it reaches ultimately Her Majesty.

802. Quite so?—In that matter I should just explain that the Act of 1869 has been modified a great deal by subsequent Acts.

803. I may say that we shall have a witness from the Education Department if you prefer to leave it to him to speak about that?—Then, perhaps, that would be more satisfactory to the Committee. Then I omitted several sections after the 9th; I went straight from the 9th to the 32nd, in order to carry the Committee through the actual procedure in proposing schemes. But I should mention that in the earlier sections of the Act, in the definitions which are in Sections 4, 5, and 6, there is, I might almost say, the widest possible definition given of an educational endowment the intention of the Act seems to be, first, to take a very wide

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power, and then subject it to certain special limitations. Having widely defined the meaning of an educational endowment, in Section 8, there are seven sub-sections creating special exemptions from the Act; and again, in Section 14, there are certain endowments defined which can only be dealt with with the consent of governing bodies; and further, in Section 11, a restriction is put upon the exercise of the powers of the Act with a view to protecting the educational interests of persons entitled to privileges, whether as inhabitants of a particular area or otherwise.

804. That is the section which has been known briefly sometimes as the "due regard" section?—Quite so. We are to have due regard to the educational interests of the classes of persons referred to in that section.

805. Would you mind quoting the section, as it is important?—The 11th Section is: "It shall be the duty of the Commissioners in every scheme which abolishes or modifies any privileges or educational advantages to which a particular class of persons are entitled, and that whether as inhabitants of a particular area or otherwise, to have due regard to the educational interests of such class of persons." I may, perhaps, add that that section has been enlarged by an Act which I have not yet mentioned, an Act of 1873, but it is germane to this matter. Section 5 of the Act of 1873 says: "It shall be the duty of the Commissioners in every scheme to have the same regard to the educational interests of persons in a particular class in life as they are by Section 11 of the principal Act required to have to the educational interests of any particular class of persons." That section was put in, I may say, because some doubts were raised as to whether the poor were a class within the meaning of Section 11 of the principal Act; and to remove any doubt about that, Section 5 of the Act of 1873 was enacted.

806. We shall come to this matter later on, when we come to the recommendations of the Committee of 1886, so perhaps we need hardly pursue it now. Section 5 of the Act of 1873 was a distinct enlargement, was it not, of Section 11 of the Act of 1869?—It was an enlargement if it were held that the poor were not a class within the meaning of Section 11, but that was a doubtful point, and it was made clear by that section which I have just referred to.

Mr. *Freeman-Mitford.*

807. Does this allude to benefactions left by a testator for the benefit of his heirs and family?—The heirs would presumably be a class within the meaning of the section.

Chairman.

808. Passing from Section 11 of the Act of 1869, perhaps you will proceed to any other section you wish to call our attention to?—There is another section I should like to refer to, and that is Section 45; it is a short section, and I should like to read it: "A scheme shall not of itself have any operation, but the same, when and as approved by Her Majesty in Council, shall, from the date specified in the scheme, or, if no

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no date is specified, from the date of the Order in Council, have full operation and effect in the same manner as if it had been enacted in this Act." That I take it means that a scheme under this Act is really, so to speak, an Act of Parliament. And here I think I may briefly point out the great difference between the Endowed Schools Acts and the Charitable Trusts Acts; that, broadly speaking, under the Charitable Trusts Acts we are set in motion from without and act on application, whereas under the Endowed Schools Acts there is no such restraint upon our action; without any initiation from without we can act of our own motion, and ultimately our draft scheme if approved, first by the Government of the day and then by Her Majesty, has all the force of an Act of Parliament.

809. In fact, the body created by the Endowed Schools Act, 1869, was a body created for the first time by Parliament with initiatory powers?—Yes; I think it may be said that for the first time there was power given to a central body to initiate: I am not referring, of course, to action by the Attorney General or anything of that sort; but here was a commission appointed with power itself to initiate these reforms; and if not a single application had been made from without, the Commissioners might, so far as the powers of this Act are concerned, have reorganised every educational endowment in the country within the scope of the Act, subject always to the approval of Her Majesty's Government of the day and ultimately of Her Majesty herself.

810–11. And that is the vital distinction between the Endowed Schools Department, and the Charitable Trusts Department?—Quite so. Under the Charitable Trusts Acts we settle schemes ourselves, our seal to a scheme is final; in fact we make the scheme. Under this Act, the Endowed Schools Act of 1869, we have wider powers, but they are to be exercised, so far as we are concerned, only in a preparatory way for approval by the Government of the day. The Government of the day must approve. Unless the Government of the day approves the scheme, it is mere waste paper.

812. Is there any other section of the Act to which you wish to call our attention?—I do not know that I need call attention to any other section at present. There are, of course, other important sections in the Act; for instance, the power of appeal to the Judicial Committee, or rather, in the original Act, the power to appeal to a composite committee, of which two should be members of the Judicial Committee. But I do not know whether the Committee would wish to go into that point; that bears only upon the legal aspect of the matter. There are many difficult sections in this Act as to which it was possible that we might go astray, and as regards the law the Commissioners were to be set right on appeal to a special committee in the original Act, the Judicial Committee as arranged under the Act of 1873.

813. Is there any other point with regard to the Act that you desire to bring forward?—No, except to say that, briefly, the case may be put thus: That as regards questions of law we act subject to appeal to the Judicial Committee; as

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regards all matters of policy or discretion we act entirely under the Education Department, or, if necessary, Parliament, in case the scheme goes to Parliament.

814. In giving in the account of the recommendations of the Schools Inquiry Commission, you pointed out that they recommended that an Act should be passed constituting two authorities, a central authority and a local authority. The Act of 1869 constituted the central authority; what did it do in respect of the local authority?—It constituted no local authority at all. It compelled the Commissioners to publish and circulate their scheme, but there was no organisation of a provincial or district authority.

815. That part of the report of the Schools Inquiry Commission of 1868 was omitted in the Act of 1869?—It was.

816. Was it in the Bill?—Not even in the Bill. I understood that the Government of the day found an extreme difficulty in arranging any satisfactory local body.

817. May I take you on this point to the Select Committee of 1873; was not Lord Lyttelton examined before that committee?—He was.

818. What was his position at the time?—At the time he was one of the Endowed Schools Commissioners, and in fact he was the Chairman of the Endowed Schools Commissioners, who were three in number.

819. Perhaps you will kindly give us some indication of the view that he laid before the committee of 1873 as to this omission to constitute a local authority?—Yes; he expressed very strong opinions about it. He was examined on the 4th March 1873 before a House of Commons Committee on the Endowed Schools Act, 1869. The passage I propose to read is on page 83 of the report of that Committee. He was asked: "Have you any remark to make with regard to the provincial councils which were proposed by the Schools Inquiry Commission, but which the Government did not feel that they were able to carry out in the Act?" This is Lord Lyttelton's answer: "I may again use the words of a paper I wrote some time ago: 'The objects set forth in the 7th chapter of the Schools Inquiry Report, so far as they relate to the executory power needed to give effect to the general purport of the Report, were threefold. (1.) The constitution of a central authority. (2.) The constitution of a local or provincial authority. (3.) The constitution of a central council of education, of which the main function was to be the inspection and examination of schools. Of these three provisions, the Legislature has given effect only to the first. The second has never been attempted; the third was fully set forth in proposed enactments which at first were a second part of the general Endowed Schools Bill, which then were separated from it, and placed in a distinct Bill, and which finally was dropped altogether.'" The Committee will observe that Lord Lyttelton, speaking of the second point, says it "has never been attempted"; that is, the constitution of a local or provincial authority. "On this third item, however, I need not much dwell; I look on it as of great importance for the perpetuation and

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vigorous existence of the educational system with which we are concerned; but our Commission is almost solely charged with the function of bringing that system into life, not with its ulterior maintenance. But without the second provision in some form, I conceive it is idle to look for more than an imperfect realisation of the objects of the Report and of the Act, at least for a long time to come. I say, in some form; the Report, indeed, furnishes the fullest particulars, for which I must refer to its text, especially pages 583–644, and to the summary in pages 627–8. But it is enough for me to dwell on the main principle. The Schools Inquiry Commissioners never intended that the immense, often invidious, always difficult, functions in the reconstitution of endowments should be placed in the hands of a single central authority with the aid of Assistant Commissioners. They intended to rest the whole fabric on two great equal pillars — a central *and* a local authority, and to show, in perhaps the most striking manner, the wide difference between what was so intended and what actually exists, it is enough to refer to the above-named summary, in which it will be seen that it was the provincial, not the central, authority which was in the first instance to fix the grade of schools, to consolidate foundations, and to propose the entire schemes for their regulation. The absence of this integral part of the system—in other words, the lack of recognised, organised legal coadjutors in our work throughout the country—has been felt by us during the whole of our existence. Such large measures—measures on the frequent expediency of which we believe all the best judges are agreed, and which, beyond question, are explicitly pointed out in the Act—on the consolidation, sometimes the partial or total transfer of endowments, and the consolidation of governing bodies, have been rarely even attempted by us, and much more rarely effected, from the invidiousness, often leading to complete impossibility, of forcing such changes on reluctant and prejudiced persons through the instrumentality of paper schemes promulgated by a newly-constituted Board sitting in London, with the aid, on the spot only, of emissaries of its own, who are there regarded, and almost in proportion to their zeal and ability, with nearly as much suspicion as the board itself. The chasm is immense between this system and the same, supplemented by a powerful local organisation of elements commanding, through the immemorial usages and traditions of the country, the respect and confidence of the whole population, such as the Schools Inquiry Commissioners had in view. So much is this indeed the case, that as we have said in our report, we look to receive important assistance—indeed we have received it—even from a few self-constituted and self-authorised committees of this kind, set on foot here and there by earnest supporters of our general object. But even if such efforts were more than partial, which cannot be expected, they would be far less effective than a legal machinery such as I have supposed. At this moment, I have no doubt, that there are parts of the country in which some large measure of

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reform might be successfully carried through with such local support, and which, without it, it is vain to attempt. In giving, then, answer to the question put to us, I cannot refrain from putting in the first rank the importance of carrying into effect the above principle of local organisation, as set forth in the seventh chapter of the Schools Inquiry Report."

820. Those words were spoken, of course, 21 years ago?—Quite so.

821. What was the reason that the Government of the day did not include in that Bill of 1889, this proposal for local representative bodies?—I have always supposed that the reason was because there were no representative bodies covering sufficiently large areas, neither county councils, nor anything corresponding to county councils.

822. Then I may put it to you, passing from this head, that the circumstances now have entirely changed in that respect?—I think so.

823. And by the Acts of 1888 and 1894 the whole area of country is covered with local representative bodies which the Government of that day were unable to find?—I should think it is scarcely capable of question that if those bodies to which you have referred had been in existence at the time when this Act was passed, they would in some form or other have been made use of as the local or provincial authorities.

824. They would have fulfilled in fact the condition which the then Chief Endowed School Commissioner held to be necessary for the successful carrying out of your functions?—Yes, I think so.

825. Now passing, if you please, to the Select Committee of 1873, will you refer to its operations?—In consequence of the Report of that Select Committee, the Government of the day, which was the same Government, introduced a Bill——

826. But before you come to the Act of 1874, will you tell us what was the result of the committee of 1873; give us some idea as to why they sat, and what they did, and what their Report was?—Their Report was not a very long one. Most of their recommendations, I think all the important ones, were embodied in the Act of 1873.

827. Then perhaps you will pass to that?—Perhaps I had better mention some of the principal alterations which were made by that Act of 1873. One was this: A great deal of difficulty had arisen in dealing with small endowed elementary schools; and under the Act of 1873, elementary schools possessed of endowments not exceeding 100*l.* a year, were excepted from the powers of the principal Act. Another alteration made was that greater protection was given to schools considered denominational, which had been founded since the Toleration Act. Another alteration was that the Education Department, which up to that time had only the power of either approving or disapproving a scheme, took power to remit a scheme to the Commissioners with a declaration in favour of an amendment or alteration; and the scheme could then be amended by the Commissioners, and submitted again to the Department for approval. That gave

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gave the Government of the day further influence over the form a scheme might take. Another alteration in procedure, an important one, was this: that, whereas under the original Act every scheme, however small or insignificant the endowment might be, had to be laid before Parliament before it could be approved by Her Majesty, it was enacted by the Act of 1873 that only schemes objected to in certain ways by certain bodies should be so laid before Parliament, with the result, that since 1873 the great majority of the schemes have not been laid before Parliament, most schemes not being opposed. I believe at the time a good deal of discontent had arisen on the part of trustees of many schools who were anxious to have their reforms carried out when they found that they were delayed, over many months very often, by the necessity of waiting for a Session of Parliament. Another amendment of great importance to us I have already alluded to, and that is that whereas in the original Act the appeal on legal points was to a specially constituted committee of the Privy Council, the Act of 1873 substituted the Judicial Committee of the Privy Council. Those, I think, are the leading alterations; there were some in minor details, which perhaps the committee would scarcely wish me to go into.

828. Then may I take it generally, that the Act of 1873 was rather a limiting than an enlarging Act?—Yes, in one sense it certainly was a limiting Act. As regards the powers of the Education Department, it was rather enlarging. The Education Department took further power—power to recommend alteration of schemes—a power which did not exist under the original Act.

829. In so far as it was an enlarging Act, the enlargement applied to the Government of the day, not to the Commission?—Yes.

830. It was a limitation of the Commission, rather; an enlargement of the Government?—Quite so.

831. Have you anything further to say on this subject?—That gives the committee the main features of that Act, I think.

832. Now the next Act of Parliament was the Endowed Schools Act, 1874, which was an important Act?—The Act of 1874 was mainly an Act for transferring the powers of the two previous Acts, those of 1869 and 1873, from the special Commission, which up to that time had exercised those functions, to the Charity Commission. At the end of the year 1874, the Endowed Schools Commissioners ceased to exist; and the powers of the Acts of 1869 and 1873 became vested in the Charity Commissioners, provision being made in the Act for the addition of two Commissioners and a secretary.

833. It would be rather convenient if you would refer specifically to the sections?—The Act is a short one; the Endowed Schools Act, 1874, the first section of which transfers the powers of the Endowed Schools Commissioners to the Charity Commissioners. The second section gives power to Her Majesty to appoint not exceeding two paid Charity Commissioners and a secretary, in addition to the three paid Charity Commissioners and secretary. Then there are slight amendments of the law in matters of procedure; that is to say, a scheme could only be approved under Section 5 of this Act by a particular quorum of the board at which the chief Commissioner is to be present.

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834. Then that Act adopted practically the recommendation of the Schools Inquiry Commissioners as to the central authority?—Yes, it continued the powers of the two previous Acts, and transferred them from the special Commission to the Charity Commission with additional members.

835. It made no provision at all for the local authorities?—None whatever.

836. Now I think you have given us in this recital of the Acts of 1869, 1873, and 1874, the main provisions of the Acts of Parliament from which you derive your powers?—Those are the Acts from which we derive our powers. I am not referring, of course, to the Welsh Intermediate Education Act, which is a very special Act; but the powers of the Endowed Schools Acts proper are contained in those three Acts which I have referred to.

Mr. *J. W. Lowther.*

837. Not only the main powers, but all the powers?—All the powers.

Chairman.

838. There is nothing outside those three Acts?—Nothing outside those three Acts.

839. We now proceed to the Select Committee of 1886–7; and, if you please, I will take you through the recommendations of that committee, if you will kindly turn to page xii of their Report, in which there is a summary of the recommendations. I wish to ask what the Endowed Schools Commissioners have done since that time (not going back to anything anterior), with respect to these recommendations?—Shall I take the recommendations one by one?

840. Begin, if you please, with No. 4?—Perhaps I had better read No. 4: "The policy of the Commissioners has been to establish scholarships in elementary schools, and exhibitions from them to schools of secondary education. On the whole these have worked well in large towns, but they are less adapted to the circumstances of a scattered rural population; and in any case scrupulous care should be taken where endowments have been appropriated to the poor that the paramount interests of the poor should be secured in the application of scholarships or exhibitions provided out of the trust funds."

841. Have you anything to say on that?—I will say generally that we have throughout endeavoured to conform to those recommendations. We acknowledge the greater difficulty in making satisfactory arrangements for scholarships and exhibitions in country districts as compared with town districts; and if we have made any special alteration as regards country districts, it would rather be in this sense: that we favour more now the establishment of a smaller number of more valuable scholarships or exhibitions, instead of a greater number of smaller value. Exhibitions of small value, if to be held elsewhere than at home, are obviously of little good to really poor children; and although we

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we confine the benefit to a smaller number by increasing the value of the emolument, still, on the whole, more good is done, and we have tended more and more in that direction, that is to say, to give a small number of scholarships of large value in order to make it more certain that the poorer classes may benefit by them.

Mr. *Freeman-Mitford.*

842. Given by nomination?—Given by merit, not by nomination; usually there is direct competitive examination. In some of our schemes there are qualifying words; still, they are given on proof of merit.

Chairman.

843. Is that all on paragraph No. 4 of the summary?—I think so.

844. Now will you take No. 5?—"The abolition of gratuitous education in elementary endowed schools is generally opposed to the wishes of the poorer classes in the localities. It is only justifiable when the imposition of fees gives a higher and more useful character of education to the working classes than they formerly enjoyed, and after provision made for payment of school fees of children whose parents stand specially in need of such assistance." About that I would only say that it was our custom to provide for the payment of fees in elementary schools, and mainly for this reason: that we were making schemes for the approval of the Education Department, and therefore we endeavoured to make our schemes for elementary schools conform to what was the policy of the Education Department at that time, which was one of charging fees. Therefore we as a rule, in fact invariably I think up to that time, conformed to that principle.

845. Of course the passage of the Free Education Act has modified your policy, I suppose?—That difficulty has practically disappeared now.

846. No. 6?—No. 6 is, "The application of non-educational endowments to educational purposes under Section 30 of the Act of 1869 has been beneficial, but the veto now possessed by the trustees of such endowments is in some cases a hindrance to reforms, and an inadequate protection for the poor. It would be expedient to substitute, for the consent of the trustees, the concurrence of some local representative body."

847. Upon that you are handing in, I think, a Return similar to that given to the Committee of 1886, with respect to your operations under Section 30?—Yes.

848. Is that ready?—It is one of the three Returns I have already handed in. I do not know that I have anything to say upon that paragraph, because the suggestion at the bottom is one for legislation and not for us. The suggestion is that the concurrence of a local representative body should be substituted for that of the trustees. Under the Act of Parliament it is the trustees.

849. And to make that change would require legislation?—Distinctly so.

850. Then No. 7?—No. 7 is: "The diversion of educational endowments from one locality decreasing in population to a neighbouring populous locality, is sometimes necessary, but should only take place after the requirements of the locality have been met." It remains with us a rare thing, a very rare thing, to remove an endowment from one locality to another. Nothing much has happened, I think, of the kind referred to here But anything like a diversion of that kind would, of course, be much more easily brought about with local co-operation than if the proposal emanated from a central body.

851. No. 8?—No. 8 is: "The diversion of an endowment partially or entirely from the education of boys to that of girls has been successful in numerous instances, but when opposed by the localities it requires discretion in its exercise." We still go on obeying that section of the Act of 1869 which requires that we should, as far as may be, extend the benefits of educational endowments to girls, and I do not think it is often on principle objected to.

852. In fact, really the exercise of this depends, like so many of your functions, upon carrying with you the sympathies and wishes of those who are affected?—That is quite true.

853. No. 9?—No. 9 is:—"The provisions of the Act which require due regard to be had to the educational interests of persons or classes prejudicially affected by a scheme have been narrowed by judicial interpretation and ought to be strengthened." That is a recommendation, again, for legislation. No. 10 says: "The extension of technical and higher commercial education has risen to much importance since the Act of 1869, and should be carefully kept in view by the Commissioners in framing their schemes. When the value of the endowment is too small to provide laboratories and workshops for technical or scientific teaching, local authorities ought to be empowered to initiate and aid them by local rates. But before applying local rates in aid of technical or scientific teaching, endowments, the purposes of which have failed, should as far as practicable be utilised." On that I will only say that the very marked movement in favour of technical education in recent years has been of great assistance to us; it has enabled us to go forward with schemes and to get local support more readily than before.

854. I think you proposed to refer to that a little later. Now No. 11?—No. 11 is: "The examination of endowed schools and inspection of the state of the buildings and apparatus, and of the discipline and general working, are subjects of urgent importance. Reports upon the actual condition of the schools should be periodically laid before Parliament. Those reports should be published in the locality in a cheap and convenient form." About that I would say that very soon after this report we did take steps, as far as we could with our very limited staff, to institute an inspection of endowed schools and educational endowments in different parts of the country; and year by year ever since that time we have succeeded in doing a good deal of work of that kind. We cannot carry it out in a very complete way, because our Assistant Commissioners being few in number are mainly occupied

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occupied with the work required of us under the Endowed Schools Acts themselves; and the Act itself directs no such thing as inspection or examination; but we have diverted our Assistant Commissioners to some extent from their more proper duties to doing this work, which Parliament desired to have undertaken.

Sir *Stafford Northcote.*

855. You have used the word "inspection;" is there also "examination"?—I should limit myself to the word "inspection;" we have not attempted to examine schools. No. 12 is: "It is essential to the welfare of endowed schools, not being of a special character, that the sympathies of the localities should be enlisted by giving to the people a large share in the management by representation, either direct or indirect, through elected bodies."

Chairman.

856. Now, upon this, I wish to call your attention to page xxv of this Report. You will find there, I think, that on this paragraph in respect to the words "a large share" a division took place in the Committee?—Yes, quite so.

857. On the words "a large share" a division took place in which the Committee appear to have been equally divided?—I observe that.

858. Will you take it from me that the object of the division was (as I happen to know, because I was the mover of the amendment) to insert the words "a majority," in place of "a large share;" that was lost by the casting vote of the Chairman; do you find that stated there?—"Whereupon the Chairman declared himself with the Ayes."

859. If that had been carried, in this paragraph of the Report of that Committee there would have appeared these words: "It is essential to the welfare of endowed schools, not being of a special character, that the sympathies of the localities should be enlisted by giving to the people a majority" of trustees. This is an important point in your operations, and was referred to in the discussions, you will remember, on the Local Government Act in December last. I wish to emphasise the point and draw your attention to it. Now will you inform us what steps you have taken to carry out that recommendation?—That will best appear from a Return which we made last year upon a motion of your own, a Return ordered by the House of Commons to be printed on the 8th June 1893. The Order was dated 16th March 1893.

860. Perhaps you will just describe that Return?—The Return was asked for in this form: "Return by Counties of Schemes approved by the Queen under the Endowed Schools Acts, between the 1st day of January 1887 and the 31st day of December 1892, showing the locality and name of each foundation, with particulars of the constitution of the governing body under each Scheme, in the following form." Then the columns are "Locality," "Name of School," "Date of approval of Scheme," and then, as regards the governing body, this heading: "Constitution as to numbers and composition of governing bodies under Scheme, viz.: (*a*) *Ex-officio*; (*b*) Co-optative; (*c*) Representative, and in what manner elected."

Chairman—continued.

861. That Return comes down to the last day of 1892; may I ask if you could bring it down to the last day of 1893?—I have brought with me a manuscript addition to it which will complete that Return to the end of 1893.

862. Will you hand it in?—Yes (*handing in the same*).

863. Can you give us the total figures under the head of each column?—I have had the columns in the printed Return totalled, but I have not yet been able to add the figures from this supplementary Return which I have only just had prepared. The number of cases named in the second column, "Name of Foundation," is 148, but I ought to mention that of those, in 32 instances no new governing bodies are constituted, and therefore they do not properly come into any comparison which might be made; and 20 of these schemes also constitute bodies which are incapable of division in the way here mentioned. For instance, if a governing body is simply a town council, we can scarcely bring it under the terms of the final column of the Return; and, therefore, for a strict comparison, that 148 ought to be reduced, but that is actually the total number of cases in the Return.

864. By what figure would you reduce it?—I think it should be reduced by 52.

865. I want to get at the total figure to which "the constitution of governing bodies" should apply?—Then the number to which that would properly apply would be 52 less; that would be 96.

866. Now under (*a*)?—(*a*) relates to the number who are appointed *ex-officio*; they appear to be 72; *ex-officio* governors being of all types and kinds. In this last column I see three of them are mayors of towns, one is a chairman of a school board, and one the vicar of a parish.

Mr. *J. W. Lowther.*

867. Does that mean 72 cases in which *ex-officio* governors are appointed, or is that the total number of *ex-officio* governors appointed?—The total number of *ex-officio* governors appointed. Then (*b*), the total number of co-optative governors provided for in these schemes which constitute governing bodies is 335.

Chairman.

868. I want to ask you a question with respect to Column (*c*). Turning to page 3 of this Return, I see (and I take this merely by way of illustration) you place under the head of "Representative," "One by owner of Cheveley Park, in county of Cambridge;" is not that rather a nomination?—No doubt, if the column had been further subdivided, one might have eliminated cases like that; but the fact is, that in the schemes for the convenience of drafting, the draftsman throws into one category all those who are elected by either a popular body or, it may be, an individual.

869. That is to say, nominated?—Yes, nominated by an individual.

870. Then, under the interpretation given in this Return, "Representative" really includes nomination?

Chairman—continued.

nomination?—It includes some cases of that; they are not numerous, but there are some. I think it will be found that they are always set out in this Return. For instance, at the top of page 5 I see among the representative governors "Three by the Duke of Bedford for the time being." No doubt they are classed as representative in the form of the scheme as drafted. There is also a reason in that particular case; the reason is given there, that the late Duke gave 20,000*l.*

871. I only wanted to ascertain the meaning attached to the word "representative"?—Quite so; it covers more than the popular acceptation of the word.

872. Can you give us the number under (*c*)?—The total under (*c*) is 698.

873. You said just now that the number nominated included under the word "representative" was not very large; have you any idea how many of the total number that would be?—I have not had them counted up, but I should have thought that a dozen or so would cover it. I am merely guessing. I could easily have that taken out.

874. That would be an advantage?—I will have it done.

875. The word "representative" bears a very distinct meaning in the minds of people in general?—Quite so; but I have very little doubt, indeed I have no doubt whatever, that it would be found that, even after such eliminations, the purport of the amendment which you moved, and which was not carried in that Select Committee, has been amply carried out. I think it would be found that on the total, beyond all question, the representative governors are a very large majority of the whole.

876. May I take it, then, that the recommendation in paragraph No. 12 in that summary has had an effect upon the policy of the Endowed Schools Commissioners?—I think we were working already very much in that direction; but I may say that we have paid still further attention to it since that time. I think the schemes shortly before the Select Committee would be found to be not widely different from those subsequent. In fact the matter has gradually come on. The earlier schemes were less representative in their governing bodies.

877. And whatever fear you may have had of the representative principle, if you have had any, that fear has been lessening?—Yes. I do not think we have had much fear; but the fact is, that it is not always everywhere popular, and we have had to work with localities and with trustees, who certainly sometimes are not very strongly in favour of this principle. I do not think we had fear at all.

878. The unpopularity arises with the trustees, does it; not with the public?—Sometimes with trustees whose consent is required. In many points a consent is required under the Endowed Schools Acts, and it has to be got sometimes for a consideration; still, for all that, I should think that probably this total I have given is a fair sample of what would be found to have happened in detail. It may be regarded as a fundamental principle in these schemes, if we have a free hand, that the representative element should preponderate.

Chairman—continued.

879. Now No. 13?—No. 13 is: "Greater publicity with respect to the proceedings of the Commissioners in regard to schemes should be given during the initial and subsequent steps, especially in the districts affected by such schemes."

880. The impression left on the minds of the Committee of 1886 was very strong in this respect, I remember, that greater publicity should be given; as a matter of fact, have you given greater publicity since this Report?—I think, as a matter of fact, we give every publicity we can consistently with not expending any extravagant sum in advertisements in newspapers.

881. Have you given greater publicity; that is what I should like to know?—I am afraid my own impression is that we did all we could before. I am afraid I should hardly be able to acknowledge that at any time we have failed in circulating the schemes in the freest way; in fact, we always in our procedure have a form drawn up before a scheme is published, in which, first of all, all persons or bodies entitled to be served are entered; then, in addition to that, we add anybody who seems at all likely to be interested in the matter.

882. Do you wish us to infer that you have not given greater publicity, because you gave sufficient before then?—I think, if I may speak quite frankly, that would be so. I should say that we did the best we could before. We often send out scores of copies of a scheme on publication.

883. Is there anything more that you have to say under that head?—No, I think that is all. I will say that we do aim at every possible publicity. We court it; it is not in any way in our interest that there should be other than ample publicity.

884. Still, what I understand you to say is, that you were doing so well before that you could not do any better?—We do as well as we can in that respect.

885. Now number 14?—Number 14 is: "It is expedient to associate in some formal manner with the central authority, in the preparation and administration of schemes, provincial or municipal bodies of representative character." I suppose that phrase "to associate in some formal manner" points to legislation. Whether it does or not we do, as a matter of fact, whether formally or not, invariably supply copies to local bodies concerned. For instance, in London every scheme that we publish under the Endowed Schools Acts is always sent, as a matter of course, both to the County Council and to the School Board.

886. That paragraph is rather amplified in paragraph 19 on page x, or rather paragraph 19 on page x is summarised in this paragraph on page xiii?—Yes, quite so; and I think it refers, does it not, to legislation? "It would be advantageous to associate in some formal manner with the central authority, during the preparation and in the administration of schemes, provincial or municipal bodies of a representative character;" which

Chairman—continued.

which at the time did not exist I take it for the most part in counties.

887. Then, in your mind that has been to a certain extent out of your purview, because you take it to mean legislation?—We took it to mean so; but in spite of that as soon as ever county councils came into operation we endeavoured to associate them with our work; and I may say that we do very largely work with county councils.

Mr. *Egerton Allen.*

888. Are municipal bodies covered by the same remark?—They existed before and we dealt with them before; and from the time that county councils came into operation we welcomed their existence.

Chairman.

889. No. 15?—No. 15 is: "Schemes have hitherto been unnecessarily detailed in their character. It is desirable that in their framing the wishes of the localities should be more consulted, and that in their administration the governing bodies (if in the future really representative) should be left more unfettered in their action."

890. Have your schemes been less detailed since that date?—To speak frankly, I do not think they have; in fact I remember myself being a good deal puzzled at that passage, because I did not remember that the point had been inquired into. I know there is a very short passage in the report itself about it, and I should like to tell the Committee what we have done bearing upon the point. In the inspections which we have instituted since the date of this report we make it an important point of our instructions to the Assistant Commissioner, that he should ascertain how the scheme works in detail, so as to see whether there are points which are not satisfactory; but I am bound to say that in my own district of the country the almost uniform reply is that what I may call the common-form clauses work extremely well. We are continually modifying and improving them as we go on, but the result of the inquiry in that particular has been to satisfy me that on the whole the different governing bodies are well satisfied with the form of the schemes. It was not clear to me at what point we could reduce them without possibly causing difficulty to those who have to administer them. We should be glad, of course, in some ways if we could get simpler and shorter schemes, but I do not think the localities show any desire to have less guidance than our schemes have afforded them.

891. Have you not received from any locality or a number of localities a representation that they were a little too much fettered by the elaborate nature of the schemes?—I think not; and it was for that reason that I was saying (because I wanted to be clear on that point), that we have directed our Assistant Commissioners when inspecting schools to take particular note of this matter, and to ask the governing bodies whether there is anything in the common-form

Chairman—continued.

clauses which does not work smoothly or well; and they are invited then to make any suggestion; but on the whole I think the verdict has been that the form of the schemes has been satisfactory. I am speaking not of the substance but the form of the scheme, the common-form clauses.

892. And you think the wishes of the localities have been fully consulted?—I think they have been. Through this inspection we have had much more opportunity of learning how the governing bodies view the schemes.

893. No. 16?—No. 16 is: "The principle of the Allotments Act, 1882, should be applied to agricultural land belonging to an educational charity, so far as the circumstances of the case may allow, and provided that no detriment result therefrom to the income of such charity." That again is, I take it, a matter for legislation. The principle of the Allotments Extension Act is strictly limited by that Act to land held in trust for distribution among the poor, and I presume that it will require legislation to extend that to land held in trust for education.

894. The same remark to a certain extent applies to No. 17, does it not?—Yes; that refers to representative bodies having *locus standi*, which could only be given in a strict sense by legislation. *Locus standi* to appeal to the Judicial Committee could only be given by legislation.

895. No. 18?

896. No. 18?—No. 18 is: "The responsibility of the Commission to Parliament should be clearly defined and made complete, and this might be most readily accomplished by carrying into effect the recommendation contained in the report of the Committee on 'Education, Science, and Art (Administration), 1884,' viz., that a responsible Minister of Education should be appointed, and should be charged with a general supervision of endowed schools."

897. That is rather a constitutional matter?—Yes. As regards responsibility to Parliament, I think that those passages I have read from Mr. Forster's speech convey our idea of the responsibility of this work and the extent to which Parliament, that is to say, the Government of the day, is responsible for it.

898. Then No. 19, which is about referring every new scheme to a Standing Select Committee, really is a matter within the province of the House of Commons rather than for you?—Yes, it is entirely for Parliament.

899. Have you anything to say as to what the effect of that, if carried out, would be on your work; we should be glad to hear from your side what you think of it?—I quite think that the appeal to Parliament, as a whole, is not a very satisfactory solution of a difficult case, because the schemes are, for the most part, purely local, and of local interest. It is not easy, of course, to get Parliament to study all the details of a scheme. I have never felt that, except on a very large and important case which everybody was interested in, the appeal to Parliament was satisfactory.

900. You are aware that these Endowed Schools Schemes are one of the classes of business that are excepted from the operation of

Chairman—continued.

Standing Order No. 1, and that, therefore, they can come on after midnight?—Yes, I believe so.

901. A discussion in the small hours of the morning with the modern impatience of the House of Commons of sitting after midnight, is a very unsatisfactory method of procedure from your point of view; it does not allow of the whole circumstances being brought out to the attention of an unwearied House of Commons?—Quite so; we should look upon it as essential from our point of view that the whole case should be fully and fairly set out in Parliament; and that can hardly be done in the small hours of the morning.

902. That is the only way in which these matters can now practically come before Parliament; therefore I may take it that, from your point of view, the present method is unsatisfactory?—I think it is unsatisfactory; but whether the other method suggested would be satisfactory I, perhaps, ought hardly to venture an opinion upon, except just to say this: that a scheme, whether it comes before the House or a Select Committee would be the scheme of the Government of the day, and have been approved by the Government of the day; and, therefore, I imagine that the Government of the day would be bound to see it through.

903. It would have a political momentum behind it, you mean?—It would have that behind it, undoubtedly.

904. You are aware that the same sort of procedure takes place with regard to commons and other matters?—I believe so.

905. There is nothing else you desire to add with reference to the recommendations of the Committee of 1886?—No, that is all.

906. Now, let us turn to the two Acts of Parliament which have been passed since then which more or less affect you, the Local Government Acts of 1888 and 1894?—That Act of 1888 I regard as the most important Act in relation to the work under the Endowed Schools Acts since the original Act of 1869. Although Parliament has not given county councils any special *locus standi* as regards our work under the Endowed Schools Acts, yet it has given us bodies to which we can apply, and whom we can interest in our work, and with whom we can co-operate, and co-operation is, I am happy to say, going on increasingly.

907. Perhaps before we go into that, which we shall be glad to do, I may ask you whether there is not another Act, the Local Taxation Customs and Excise Act of 1890, which has had an important influence on your operations?—Yes, I ought, when answering just now that the Local Government Act of 1888 was of such importance to our work, to have said still more when supplemented by the Local Taxation Customs and Excise Act, 1890.

908. By that a large stream or many streams of money have been turned into the coffers of the county council; is not that so?—Yes.

909. Then there is the Local Government Act, 1894?—That Act, of course, is so new that I am not able to say much about any effect it may have had yet, but it certainly will have effects which I cannot altogether foresee.

910. Perhaps you can tell us a little now what course has been followed by the Commissioners under the Acts of 1888 and 1890?—Under those Acts we have taken in the Endowed Schools Department a good deal of initiative. We wanted the assistance of these local bodies, and in many cases we did not wait for them to come to us, although they have come for information in many ways, but for the special work under the Endowed Schools Acts we have endeavoured rather to approach them; that is to say, we have taken every opportunity we can of interviewing the organising secretaries who have been appointed in the different districts for the purposes of what is called under the Act technical instruction. They have often come to our office; I have seen many of them personally myself; and we have been able to give them information which they, I think, were very glad to get, and, so to speak, to open their eyes a great deal to the possibilities which lay before them under the Local Taxation Act, because, of course, as the Committee is aware, this money came suddenly and unexpectedly upon county councils already occupied with other work and having not yet devoted themselves specially to educational problems. We thought therefore that we could be of assistance, and accordingly we have from time to time endeavoured to give such assistance, first, by offering to county councils places on governing bodies of schools, so as to interest them in educational work; partly by giving notice to them of all schemes published in their districts; and we even went so far at a very early stage as to send special notice to county councils when a public inquiry was going to be held in some town in the area of the county council, simply that they might, if they would, attend and hear and learn what was going on in educational matters in their district. One or two county councils inquired why they should be asked to go, and what they had to do with it. I mention that as showing how novel the thing was at the time; but more and more the county councils are becoming interested in this work.

911. I suppose, with respect to the representation of the county councils on the governing bodies, we shall find it in the Return?—Yes, to some extent in the Return; but this being quite recent work a good deal is going on beyond the Returns which I have put in.

912. But all up to the end of last year we shall find in the Return?—Yes. What we have done is this, in fact: we have in many cases put out a special scheme for the primary purpose of bringing the county council on the governing body of a number of schools. The first communication, I think, that passed between our Endowed Schools Department, and the London County Council, was a proposal from us to issue a scheme under which the London County Council should have a voice on most of the secondary schools in London. After some communication between us, they have fallen in with our view, and a scheme is now before the Education Department which will give the London County Council a share in the government

Chairman—continued.

government of, I think, some thirty schools or more in London.

913. Can you give us any instance, outside London?—Yes, of just the same sort of thing. In fact, the very first scheme of this sort was one for the county of Surrey. The County Council of Surrey was anxious to aid the grammar schools in their county, which are for the most part poorly endowed; and on their communication with us we put out a scheme under which the County Council are represented on all the schools in the county; and, in return, the County Council make yearly grants of money for the development of scientific and technical education in all those schools. A similar scheme is already in force also for the Lindsey division of Lincolnshire.

914. There is a County Council for the Lindsey division of Lincolnshire?—There is a separate County Council for the Lindsey division. And similar schemes are in progress now for Hampshire, Hertfordshire, Somersetshire, Essex, and Leicestershire; and I have no doubt that as time goes on other counties will come in, in the same way; so that probably before long the County Councils will be represented practically upon all the governing bodies in their areas, with certain exceptions. There are some cases where we are debarred.

915. You are finding now, in these County Councils and Municipal Bodies, the bodies, the lack of which Lord Lyttelton deplored?—Very much so.

916. Have you issued any instructions to the assistant Commissioners in respect of this?—I have, in many cases, where an assistant Commissioner is going into a rural district asked him beforehand to let the organising secretary of the Technical Education Committee of the County Council know that he is coming, and give him an opportunity, if possible, either in London or the locality, of having some conversation; and I know that in some cases the organizing secretary has been directed to attend and go with our assistant Commissioner on some of his official visits; and that I think is a very useful combination of work.

917. Have you anything further to say under that head of the influence of those Acts of 1888 and 1890, upon the work of the Commissioners?—Only that, generally, I think, the more we can get County Councils to work with us the more momentum there will be.

918. Possibly, the more you work with them?—Yes, the more we work together.

919. You say the more you can get them to work with you; may I put it, the more you work with them?—Yes; but we cannot do what is strictly their work; they can help us to do our work. In fact, what we look forward to in many cases is that the deficiencies of endowments may be made up by assistance from the County Council from the money which they receive under the Local Taxation Act.

920. The more in fact (to use the words of the last Committee) the Charity Commissioners enlist the sympathies, and consult the wishes of the localities within the Acts of Parliament, the better?—Quite so. Now that we have organised bodies that we can go to we can do in a formal and simple way what before was difficult to do.

921. Because you then had no one to consult?—Because we had no organised body to deal with.

922. Is that all you wish to say on that point?—Yes.

923. Would you kindly tell the Committee what the geographical apportionment of work is under the two Endowed Schools Commissioners?—The whole country is divided between Sir George Young and myself. I take, broadly speaking, the eastern, midland, and southern parts of England; that is to say, my northern boundary is formed by the counties of Lincoln, Nottingham, and Derby. Sir George Young has the counties north of that, and all of Wales and the counties bordering on Wales; that is to say, from Cheshire down to Gloucestershire. I take what is within that limit, including, therefore, London.

924. Now, I wish to ask you with respect to the exercise of your functions. Will you describe to us what you consider to be within your own individual discretion; and what matters you would take the opinion of your colleagues upon?—The first steps of every case I regard as in my own personal discretion; whether I shall deal under these Acts with a given endowment within the area of the country which is specially allotted to me I consider to be a matter for myself; and, therefore, I personally direct the assistant Commissioners over whom I have control as to what places they shall visit, and what work they shall do. But that is all preparatory work. It may be that the result of an inquiry is to satisfy me that I had better do nothing. If that is the result, I do not trouble the Board with the matter at all. I may have made a careful inquiry, and satisfied my own mind that the matter had better wait, and then I should feel myself at liberty to desist.

925. In fact you would consider it within your individual discretion to stop any further proceedings at a given point?—At the early stages, certainly.

926. You mean, if you were satisfied in your own mind that no good could be done by proceeding?—Quite so.

927. Would you report that arrest on stoppage to the Chief Commissioner in any way?—Probably not. If it was some very noticeable case, a case to which attention had been called, or a very large endowment, or in any way a very important matter, I should not improbably mention it at the Board, in order that my colleagues might know that something was going on about that case.

928. Then would it depend to a great extent upon the magitude of the interest involved?—Probably so.

929. It being within your discretion to judge whether the magnitude was sufficiently great or not?—Yes. I am guided rather by this feeling; that one would not wish anything important to be going on in the office without one's colleagues knowing of it; if it was really important I mean.

930. Then do you make any minute of that, which

Chairman—continued.

which comes under the notice of the Chief Commissioner in any way. Supposing you decide in your own mind, "this shall go no further," do you make any minute of that?—There would be no doubt something on the file; it might be a letter going to the governing body to state so; or it might be a written minute of mine to the assistant Commissioner to stop; the file of papers would presumably show the history of the case.

931. As a matter of practice does this Chief Commissioner of your body exercise any supervision in such cases; does he look at what his colleagues have done?—Probably not, unless I should bring the matter to him. I might wish to fortify myself by the advice of a colleague, and then naturally the colleague one goes to first would be the Chief Commissioner.

932. Then may I take it that you consider it absolutely, and you act as if it is absolutely in your own discretion to stop a matter if you think it not sufficiently large to go on?—Certainly, if it has not yet reached the stage of public action by the issue of a scheme. It might be otherwise if we had gone so far as to publish a scheme; then the whole Board is committed to a certain step; and no scheme is published under the Endowed Schools Acts, until the heads of it beforehand, in a particular form, have been brought before the Board by the individual Commissioner and thoroughly discussed there.

933. Now will you kindly describe exactly the point at which the responsibility of your colleagues comes in; supposing the individual Commissioner considers that matters should go on, what is the exact point at which the consultation with, and responsibility of, his colleagues comes in?—It would come in, as a rule, at the point at which we bring the heads of a proposed scheme to the Board. Those heads are sketched out in considerable detail under a good many titles; copies are multiplied and distributed to each Commissioner at the board preceding that at which it is proposed to discuss the case. At the board, when it comes on for discussion, the particular Commissioner takes the points one by one. Some of them are legal points, on which there may be often a good deal of discussion and a difficulty in arriving at a conclusion. Those are points on which, particularly, the individual Commissioner wants to be fortified with the opinion of the Board. Then this form will set out not only these possible legal pitfalls, but also what the value of the endowment is; how it is now applied; what the main purpose of the new scheme is to be; how its governing body is to be constituted; what arrangements are to be made for scholarships, exhibitions, and so forth; and what provision is to be made under the clause requiring due regard to particular classes of persons. All those points are gone through by the entire Board.

934. The Board consists of the Chief Commissioner and certain other Charity Commissioners, and two Endowed Schools Commissioners. Therefore, when an Endowed Schools Commissioner brings an Endowed Schools scheme before the Board, others than Endowed School Commissioners sit in judgment upon it?—Undoubtedly the whole Board, including the Parliamentary Commissioner have an opportunity of starting any question upon the form.

935. Upon the other hand, the Endowed Schools Commissioners sit in judgment upon charitable trusts?—They are there to take part, so far as they think fit, in any charitable trusts work.

936. In fact, you become Commissioners in a double sense when you come to board meetings?—The Commissioners under the Endowed Schools Acts are to be Charity Commissioners for all purposes; so we have the same responsibility as Commissioners appointed under the Charitable Trusts Acts.

937. And the Charitable Trusts Commissioners become Endowed Schools Commissioners?—They are responsible for our work, though the arrangement that we think most convenient, and that under which we act, is that there shall be an assignment of work to certain Commissioners.

938. Is there anything you wish to add to that summary of individual responsibility and Board responsibility?—If the Committee will like to hear the further steps at which the Board intervenes in a case, perhaps I could just state that.

939. If you please?—After this form has been disussed and amended or not, as the case may be, and approved by the Board, the next step is that the draughtsman prepares a scheme to carry it out. The individual Commissioner then having got the board's approval of the substance of the scheme is free to go forward with the draft of the scheme and publish it, and it does not necessarily go to the Board again at that stage. Then it is published, and objections and suggestions are received under the Act for a period of two months; at the end of which the individual Commissioner is free to take the matter up again and consider with himself what steps he shall take. It may mean further inquiry and consultation with the assistant Commissioner who has been on the spot; correspondence with trustees and others who have raised points, and so on, and therefore a good deal of delay may in some cases take place after the expiration of the two months. During that time the individual Commissioner may be making up his mind as to what proposals for amending the scheme he shall make to the Board, what alterations, in point of substance; that is to say, alterations in those points which have been formally settled by the Board before publication, and which the individual Commissioner would not feel free to make except after a fresh reference to the Board.

940. As a matter of fact, is there often fresh reference to the Board?—In the vast majority of cases there are amendments to be proposed and made, and they are discussed at a board meeting. The scheme is then amended by the draughtsman, and goes forward to the Education Department.

941. Is there anything further on that point that you desire to say?—No, I think that is all.

942. I want now, if you please, to call your attention to the terms of reference to this Committee, which divide themselves into two. In the first place, we are appointed to inquire whether

Chairman—continued.

whether it is desirable to take measures to bring the action of the Charity Commission more directly under the control of Parliament. We shall be glad to hear anything you have to say on that?—Limiting myself, as I do throughout my evidence to-day, to the work under the Endowed Schools Acts, my belief is that we are now, for the reasons I have already given in what I have said about the origin of the Acts, directly under the control of the Government of the day, and through the Government of the day under the control of Parliament.

943. Your position on the Endowed Schools side is very different from that of the Charitable Trusts side?—Quite so; I think it is very different.

944. Then from your point of view, do you think that any change is unnecessary?—Upon that matter I think the responsibility to Parliament, as far as I can see, is absolute.

945. You have sufficient momentum, have you, on your side. May I put this to you: were you in the room when the Chief Commissioner gave evidence with respect to what he called Parliamentary momentum?—I am not sure that I was; I am not sure that I heard it.

946. Do you think that the endowed schools side has sufficient Parliamentary momentum to carry its scheme through?—I think when a scheme has got to that stage, that it has been approved by the Government of the day, it has the momentum of the Government.

947. In fact it is a Government measure?—It is a Government measure, as Mr. Forster said in his speech on the Second Reading of the Endowed Schools Bill of 1869.

948. Then you have nothing further to say under that head?—No, nothing.

949. Then turning to the second part of our reference, "Whether it is desirable to give it more effectual means of dealing with the business which will come before it," that is the Charity Commission, have you anything to say on that?—I imagine that that phrase, "the business that will come before it," looks rather to the additional work which is coming upon us from more recent legislation. As regards the Endowed Schools Acts, I think we have got great assistance, and shall get further assistance, through the legislation of 1888 and 1890, to which I have already alluded.

950. As the mover of that resolution I may say that that was an element, but by no means the only element; it was intended to cover the whole operations of the Commission?—I do not think I have any suggestion to make for increased means of dealing with the business.

951. Your staff is sufficient, is it?—With regard to the staff under the Endowed Schools Acts, it is difficult to speak of that quite in the same way as of the staff under the Charitable Trusts Acts; because under the Charitable Trusts Acts work comes and accumulates and must be done; under the Endowed Schools Acts, the work being initiated mainly by the office itself, it is impossible to say that there is the same pressure for staff; with a smaller staff we can initiate less work.

952. The Endowed Schools Commission is

Chairman—continued.

kept alive, I think, now by an annual Act of Parliament?—We are in the Expiring Acts Continuance Bill every year.

953. And supposing that Act from any reason were not passed, the Charity Commission would be shorn of two Endowed Schools Commissioners and certain other strength?—They would lose all the powers under the Endowed Schools Acts.

954. I am speaking now of persons rather than powers; I am correct, am I not, in assuming that?—Yes, quite so. I think you are correct in assuming that the Commissioners would cease practically if that were done.

955. I think in its inception the Endowed Schools Commission was presumably a temporary body?—Yes, it was appointed for a short term of years.

956. Why has it become something approaching a perpetual body?—I think when the Bill was introduced in 1869, it was felt by the Government of the day that it was so novel, and the powers given were so wide, that it would not be right to confer them except for a short term, so that Parliament might soon review the work.

957. And the same idea was to be found in the Act of 1874, I think?—I think so. I think it has always been so; the work was so critical and raised so many interesting points, and the principal Act conferred such unusual powers, that it was felt that Parliament must keep its hand upon the operation of the Endowed Schools Acts by this system of renewal for short periods.

958. Was there not some evidence given in those days going to show that the actual work of the Endowed Schools Commissioners would become less and less?—I am not sure about evidence given before any particular inquiry; but I think the idea at first was that schemes could be made once and for all, and that there being a given number of schools, it would take only a given number of years to re-organise the whole of them.

959. I suppose during the last 10 years you have as a matter of fact been covering the country with schemes?—Undoubtedly we have, for the last 20 years.

960. And where a scheme has been adopted, that ground has not to be covered again by a new scheme?—In a very large number of cases we now find it necessary to re-make schemes that were made 20 years ago.

961. Does that arise because of the altering circumstances of the localities?—Very largely because of the altering circumstances; very largely from change in the value of the endowments. Many endowments consisting of agricultural land are now practically not worth more than half what they were 20 years ago. On the other hand endowments consisting of house property have very often doubled or trebled in value. That is one great reason; but it is also to be borne in mind that when schemes were first made there was not the experience that there is now. I do not say that they were bad schemes, but there was a great pressure to pass a great number of schemes in a very short time; and schemes were made more hastily 20 years ago than they are now.

Chairman—continued.

962. Then to a certain extent schemes are made with greater care than they were 20 years ago?—That is quite true. I can say that because I had to do with the schemes at the time. I remember that Mr. Forster several times when he met me pressed me, "Cannot you send us more schemes?" and he was impatient at the slowness, as he thought, of the action of the machine which he had set going; he perhaps did not know how many legal difficulties, and how much opposition we should encounter; and so we were very much pressed then to make schemes, as he said, in the rough; and to some extent that was the case.

963. Then would you wish the Committee to infer that your opinion there would be a large amount of work either in framing new schemes or in remodelling old ones for a good many years to come?—I can myself see no probable end to it. Following it as I have done all the way through, I am continually now seeing where improvements could be made to schemes of 15 or 20 years ago. The mere fact that County Councils have come in, alone is a sufficient reason for altering to some extent almost all the schemes; and then if you once begin to alter, it is a question whether there is not an improvement to be made at some other point; and so you are drawn on to more and more remaking the whole schemes; and I am not sure myself whether it is desirable that there should be anything like finality in matters of this kind. I am not at all sure that after 20 or 25 years, almost every scheme ought not to be overhauled.

964. I do not wish to press you unduly, but you are aware that there is a strong feeling in some quarters that there might be fewer Commissioners?—Yes, I have heard that said.

965. That the body might be diminished in numbers, and rather consolidated in its operations; have you any observations to make upon that?—If the work is to go on at all it would entail a very large alteration in the constitution of the office. It goes almost without saying that if you impose *quasi* legislative work upon men who are already occupied to the uttermost with administrative and judicial work, which presses upon them, and which they cannot put aside, men so situated could not attend vigorously and continuously to such *quasi* legislative work as we have to do under the Endowed Schools Acts. So, I think, the work would necessarily, I will not say quite, but to a very large extent, stand still, if the two special Commissioners were extinguished.

Mr. *Freeman-Mitford.*

966. Would not the effect of that be instead of having fewer Commissioners, you would have to have more Sub-Commissioners, and that the same work would be done by you under another name?—That was what I referred to in answer to the Chairman: that the work could only be done by involving large changes in the whole office; I mean that the staff would have to be re-arranged; but even then it is very difficult to see how work so responsible as that under the Endowed Schools Acts could be devolved upon subordinates.

Chairman.

967. Would it be possible to diminish the number of what I may call superintending minds, and give them more assistance of a subordinate character?—I think the work under the Endowed Schools Acts would have always to depend upon the initiative of a head of the Department. I hardly see how it would be possible for a Commissioner to entrust to a subordinate such a discretion as whether he should, or should not, employ the powers of the Act upon a given endowment. I think it is too responsible a decision for any but a Commissioner to take.

968. Then the difficulty would be rather with what I may call the individual discretion work than with the Board work?—Yes, I think it would more particularly be as regards the exercise of the discretionary power which the Act reposes in the Commissioners.

969. So far as the consultative action of the Board is concerned, a smaller number of Commissioners might do the work?—Yes, I think it very likely that it might be so.

970. I am asking your opinion now from the board point of view, in which, as you have told us, you exercise functions other than those of an Endowed Schools Commissioner; would it be possible from the board point of view to relieve the Chief Commissioner of some of his more subordinate functions, less important functions, and clothe him with more superintending power?—You see the Chief Commissioner is, as it were, *primus inter pares.*

971. I am aware of it?—He is not the head of a department in the same sense as is usually the case in other offices; in offices differently organised. At the same time, he does exercise throughout a supervisory authority.

972. But, looking at the question purely in the abstract, and without reference to persons at all, do you think that the efficiency of the Charity Commission would be increased by clothing the Chief Commissioner with more of the functions of the head of a department, and making him less of a *primus inter pares* as now he is?—I should be afraid that the result of that would inevitably be increased complaints about delay, because then the Chief Commissioner would become, so to speak, the neck of the bottle; everything of importance would be referred upwards. I think one of the great advantages in our present organisation is that individual Commissioners can pledge the board; but if you once had the other arrangement, it is difficult to say where a subordinate Commissioner would feel justified in acting without referring upwards.

973. And you give that answer quite apart, as I say, from persons?—Quite so.

974. Assuming, for a moment that you were Chief Commissioner, and responsible for the whole functions of the Chief Commission, would you wish, as Chief Commissioner (assuming for a moment that you were in that position) to be clothed with those greater functions to which I have referred?—I think work of that kind is best done by several heads, who are able, each on his own responsibility, to pledge the whole Commission.

975. In fact, you would reserve the individual discretion

Chairman—continued.

discretion power rather than enlarge the board power of the Commission?—I think it would be a mistake, from the point of view of expedition, to enlarge too much the element of board control. Of course, it is absolutely essential to have board control; but there again time which is spent at the board is taken away from time spent at one's own desk, where, after all, the bulk of work is carried out.

976. Of course you will admit this is a serious matter; and we are very anxious to have your best opinion upon it. It is a constitutional question; do you wish to infer that you think no improvement could be made in the constitution as it exists; or do you not go quite so far as that?—I do not know that I should quite like to say that; for I think it is a misfortune, an unfortunate and an anomalous thing, that work of the magnitude which we have under the Endowed Schools Acts, which has already lasted for nearly a quarter of a century, and of which I see at present no end, should be committed to agents who are on a tenure from year to year. I do not think that there is anything parallel to that now in the whole of the Civil Service; and I think it is a disadvantage that there should be a sense of unsettlement and uncertainty in this year-to-year renewal of powers which in the interest of the public I cannot conceive should be otherwise than continued. In answer to the question, then, I certainly do think that an improvement in the constitution of the Charity Commission would be a removal of that anomaly of year-to-year Commissioners, not only doing work under the Endowed Schools Acts which must continue, but also being responsible for the regular work done under the Charitable Trusts Acts. The whole of the regular work of the office is brought within our range of responsibility, and within limits the temporary Commissioners do take part constantly in permanent work.

977. Do you wish to add anything further on that point?—No.

978. Then leaving that and coming to my final point, have you any suggestions you wish to lay before us at all?—I think not at this point.

Sir *Stafford Northcote.*

979. You are familiar, I suppose, generally with the evidence given by Sir George Young before the Committee in 1886?—I heard it at the time.

980. Would you kindly look at Question 689 in that evidence. There Sir George indicated his opinion that within 10 years the work of the Endowed Schools Branch might be reduced. After the answers you have just given to the Chairman, I assume that you do not agree in that opinion?—I certainly do not agree now, and I should doubt whether Sir George Young would have given that opinion if he had known that County Councils were coming into operation, and were likely to receive enormous funds for secondary education, which I think has altered the whole aspect of the matter.

981. And you told us that the late Mr. Forster rather grumbled at the slowness with which you provided him with schemes. I presume that if any reduction in the number of the Commissioners were to take place, the probability is that the rate of production of schemes would diminish?—That would be the inevitable consequence.

Sir *Stafford Northcote*—continued.

982. Then I would ask you to look at page XI. of the Report of 1887. There the Committee reported that they had heard the evidence of Sir John Swinburne, formerly a Member of the House: "At whose instance the House of Commons on the 18th of May 1886, passed a resolution in the following terms: 'That in the opinion of this House every scheme of the Charity Commission ought to provide for the majority of the trustees or managers being directly appointed by the ratepayers in the locality to which the Charity extends';" but the Committee after giving its further consideration, "failed to satisfy themselves that this resolution could be practically carried into effect." I would like to ask you upon that whether your relations with trustees and governing bodies now are more or less generally satisfactory than they were, let us say at the time when Sir John Swinburne's Motion was brought forward?—Under the Endowed Schools Acts I should say that our relations are usually fairly satisfactory, with this qualification—that at the time the Committee of 1887 reported there were pending certain large contentious cases which for the most part have since been dealt with.

983. And do you find, as a matter of fact, that the veto possessed by the trustees of these endowments referred to in Section 6 of the Summary of the Select Committee's Report does now frequently constitute any serious drawback to the Charity Commission in carrying out schemes?—As regards Section 30 of the Act of 1869, do you mean?

984. Yes, under Section 30?—Under Section 30 we can do nothing without consent, and, therefore, we practically wait for applications, and the amount of work done under that section is rather a vanishing quantity.

985. I should like to refer you to Questions 782 and 911 of the evidence of 1886. Sir George Young says, in answer to Question 782, that the objections to carrying out schemes have been rather increasing in intensity. Then at Question 911 he says that he thinks: "there is a greater desire now on the part of the Commissioners to meet the wishes of the trustees and managers, and of the locality." Are not these answers a little contradictory, and do they not, at all events, show that it may not be quite fair to attach the whole blame of objections to schemes entirely to the governing bodies and the trustees?—Perhaps it may be so. At that time (it was rather a peculiar time when that evidence was given) there was a rather intense opposition in many places which, since the Report of the Select Committee, has, for the most part, died away.

Chairman.

986. You have got into calmer waters?—I think so, certainly. The effect of that Select Committee, though legislation did not follow, was still very great in other ways.

Sir *Stafford Northcote.*

987. Then, in answer to the Chairman, you gave us some of the views of the late Lord Lyttelton. I say that in answer to Questions 1037 and 1038, put by our present Chairman in 1886, it was stated that Lord Lyttelton said that he believed it was "necessary to have a strong popular Government, and that can only be obtained by the infusion of the representative element." Of course the infusion of the representative element in some form need not necessarily carry with it the constitution of a majority of the governors elected by popular vote?—If by the "popular vote" is meant a direct election of ratepayers, I may say that in municipal boroughs that is practically never proposed by us. I think you get far better results if you give to a constituted popular body the choice of persons.

988. But the infusion of the representative elements does not necessarily carry with it the swamping of what I may term the official element?—No, it does not.

989. And I find, as a matter of fact, that Canon Robinson, who was a colleague of Lord Lyttelton, did not go by any means so far in his views as to the introduction of the representative element as Lord Lyttelton himself?—Probably not so far; but he was not averse to it, as I can say from having worked with him for many years.

990. Then, with regard to the question of appeal from the different bodies, Section 13 of the Act of 1873 enlarged the provisions of the Act of 1869 as to the persons who could appeal against any scheme in which they might take an interest. It enlarged the Act of 1869 by permitting "the council of any municipal borough directly affected by the scheme, or any inhabitant ratepayers (not less than twenty) of any municipal borough or place directly affected by the scheme," to present a petition to the Committee of Council on Education asking that the scheme might be laid before Parliament. That was an enlargement of the power of appeal as originally created?—No; it is in substitution for the direction under the original Act that every scheme should go before Parliament. Under the original Act every scheme went before Parliament. The passage the honourable baronet refers to is this: "During the said two months a petition praying that the scheme may be laid before Parliament may be presented to the Committee of Council on Education by the governing body of the endowment to which the scheme relates, or by the council of any municipal borough directly affected by the scheme, or by any inhabitant ratepayers (not less than twenty) of any municipal borough or place directly affected by the scheme." Prior to that every scheme had to go before Parliament, but that passage reserved the right to certain authorities to require that a scheme should go before Parliament.

991. May I take it, so far as your side of the Charity Commission are concerned, you have rather acted on the same principle that I understood Sir Henry Longley to acquiesce in at No. 680, on page 43 of his evidence. Perhaps I should just read it to you. Sir Henry Longley

Sir *Stafford Northcote*—continued.

said there, that for the reasons set forth in his answer, he had thought it best, or the Commission had thought it best, "in order not to deter people from access to the jurisdiction to introduce that principle" (namely, the principle of not swamping the schemes by too large and immediate an introduction of people elected by the ratepayers) "gradually"; and may I take it that in the same way you have felt it right to exercise some caution in the introduction of what is termed the direct representative element into your schemes?—The particular reason assigned by Sir Henry Longley would not apply in our case—the deterrent effect. I understand Sir Henry Longley to mean by that term the effect in deterring trustees from coming to the Commission and applying for schemes, or whatever it may be. Under the Endowed Schools Acts we do not wait for applications, and, therefore, the particular reason mentioned, the deterrent effect, would not apply strictly to work under the Endowed Schools Acts; but, of course, we do at every point try, I will not say, to please everybody, but as far as we can not to go far beyond the sentiment of the place.

Chairman.

992. To consult the wishes of the locality, in fact?—To consult the wishes of the locality.

Sir *Stafford Northcote.*

993. Then, with reference to consulting the wishes of the locality, might I refer you to Nos. 785 and 786 in the evidence of 1886. Sir George Young there gives evidence as to the reasons why it it is undesirable to consult persons locally interested and locally conversant with the facts before a scheme is formulated. He sets forth the reasons given by the Charity Commission in those two answers to Mr. Cozens-Hardy. He says, for instance, "if we were to take the public into consultation at the earliest stage before the scheme was drafted, practically, the work would be thrown away," and so forth?—Yes.

994. May I take it that you agree with him in that opinion?—If it means putting proposals in an early and crude shape before the public, I think that would be so. In fact, I have had experience in a particular instance lately, where for particular reasons I felt bound to go to all the public authorities in the place before we had decided what to do; and the result was a remonstrance that I had caused great confusion by prematurely consulting everybody; I think the best thing is to offer something plain and clear to the public, that they may judge of it, and not merely alternative proposals or suggestions.

995. I think your practice already is to give very much more general notice of your schemes to the localities interested, than you are, strictly speaking, bound to do under the Act of 1869?—Certainly; we always go far beyond what is required by the Act.

996. With regard to the evidence which you gave yourself before the Committee of 1886, I should like to know whether you think that sufficien-

Sir *Stafford Northcote*—continued.

sufficient powers of appeal with regard to any schemes that you may prepare exist already, or that there is any necessity for further strengthening or increasing the powers of appellants under those schemes?—The question refers, no doubt, to appeals to the Judicial Committee.

997. Yes?—I should not like to do anything which would encourage trustees to spend money on litigation; it is a very expensive process before the Judicial Committee.

998. Then with regard to the question of accounts and audit, I might refer you perhaps to Questions 690 and 903 of 1886; but a good many questions were asked then. Of course, if you were to have a better system of accounts and of audit, that would involve a considerable increase of staff, I presume?—I suppose there would be some increase of staff necessary.

999. You have sufficient powers in your judgment for accounts and audit if you had got the staff to carry them out?—For the production of accounts; I believe we can compel accounts in any case.

1000. But you are unable to put these into effect because you have no staff to examine the accounts?—No, we have not nearly staff enough to examine the accounts. They are examined from time to time on occasion if attention is called to a particular case; but systematically and throughout, we certainly have not the staff to do it.

1001. And is it your opinion that you should be provided with a sufficient staff to ensure the production and the examination of these accounts?—It is a matter on which, in my particular department, I have not had occasion to form much judgment; because all endowed schools when they become reformed, do send their accounts, and the accounts are almost invariably, as a rule at all events, in good form. The question refers rather to the minor non-educational charities with which I have much less to do than the Chief Commissioner and his colleagues.

1002. Then may I take it that the endowed schools accounts that you receive are as a rule satisfactorily audited?—I will not say satisfactorily audited, but I think they come regularly and in proper form.

1003. Probably this question affects the Charitable Trusts Department much more than yours; and I will put it to the secretary when he comes?—Yes.

1004. Then with regard to the question of subsequent inspection and examination of schools under your schemes, you told us in answer to the Chairman that you had taken steps with regard to securing the subsequent inspection of the schemes referred to in the Summary, paragraph 11; have you sufficient powers and sufficient staff to carry out inspection properly?—Not sufficient to do it systematically; that is to say, supposing it was desirable that every school should be inspected, say once in three years, then I should say we have not nearly staff enough to do it, but for several years now ever since 1887 we have been carrying on that work, though we have not got through the whole of England yet for the first time.

1005. Have you done anything in consequence

Sir *Stafford Northcote*—continued.

of the recommendation in paragraph 11 with regard to examination?—We have not ourselves undertaken anything in the way of examination; but we have since this report strengthened the clause in our schemes which directs examination by some person or persons external to the school; that is to say, we have added a power to the effect that in the last resort an order of our Board might issue directing that the school be examined in some particular way; and that is now put continually into all our new schemes; a power that is to say by order to direct that a school be examined in a particular way.

1006. I think you said this was only a power you exercised in the last resort?—It is a power which I think would only be exercised on the refusal by a governing body to submit to a reasonable examination test. The case one can contemplate would be this: that perhaps we might get complaints that a certain school was really inefficiently taught; we receive the reports of its examiner; we perhaps find that the examiner's report is full of praise; there must be something wrong, and we find perhaps that the examiner is an unknown person at all events. It might be well in a case of that kind for us to suggest to the governing body that they should, in order to dispel any doubt, submit to an examination by some recognised examining body; and probably they would act upon that mere suggestion; but in the last resort we take power by an order to compel it.

1007. But that difficulty has not yet practically arisen?—We have made no such order.

1008. Then, with regard to your Parliamentary position, I think the Chairman has gone very fully into it; but, as a matter of fact, the Education Department does examine closely the schemes which you submit to it?—I may put it in this way: If the scheme reaches them, and after they have advertised it no objection of any sort is raised against it, my impression is (but this the Education Department secretary could say) that they would probably then approve it without much hesitation; but if objections come to them, as they frequently do, then to my knowledge they are closely gone into.

1009. The presumption would be that if they heard no objections from the locality, the scheme was a good one which would go through Parliament?—That would be the strong presumption.

1010. But, assuming it is a scheme to which objection is taken, the Education Department would look closely into it, and the Vice-President of the Council would satisfy himself as to the merits of the scheme before assenting to it?—Yes. Their practice then is to refer to us and to hear what we have to say. Perhaps an objection taken before us and overruled by us would be renewed to the Education Department and they would ask us for our explanation.

1011. Having then thoroughly considered the scheme, they would be prepared to submit it to Parliament?—Yes.

1012. From the quotations that you have given us from Lord Ripon's and the late Mr. Forster's speeches, I assume that so far as you are concerned you consider that the ministerial responsi-

Sir *Stafford Northcote*—continued.

bility is complete with regard to your schemes?—I think so.

1013. And most of the contentious work of the Charity Commission arises from schemes under the Endowed Schools Acts?—I suppose most of the contentious schemes certainly do; because after all, schemes under the Charitable Trusts Acts are made only on application.

1014. But most of the contentious work that comes before Parliament arises under the Endowed Schools Acts?—Yes, of the work that comes before Parliament.

1015. Therefore, in your opinion, is there any case made out for the creation of a new and high Parliamentary Official?—From the point of view of the Endowed Schools Acts, I should say, no. I think the Vice-President in the one House and the Lord President in the other, are our natural champions.

1016. Then with regard to page 10 of the Report of 1887, should you be in favour of the transferance of the work of the Charity Commission *en bloc* to a single Parliamentary Minister, the Commissioners remaining permanent officials responsible to that Minister, but not responsible themselves to Parliament direct?—No, I do not think I should be in favour of such a change as that.

1017. You would prefer that your direct responsibility towards Parliament should remain as it is?—Yes.

Sir *Andrew Scoble.*

1018. You were asked whether the work could be done with a smaller number of Commissioners, and I think you said that in your opinion the work was sufficient to occupy the whole body as at present constituted for many years to come?—At present it certainly amply occupies all five Commissioners, and I think the work under the Endowed Schools Acts is likely to alter and possibly expand considerably in the future.

1019. Your own complaint is that the Endowed Schools Commissioners do not hold their office at present on a satisfactory tenure?—In answer to a question from the Chairman whether I had any suggestion to make, I said that I think their tenure is an anomalous state of things.

1020. You were asked also, as to whether you thought it would be desirable to make any change in the status of the chief Commissioner, that he should cease to be as he is now *primus inter pares*, and should have a general supervising authority; and I think you were against any change of that sort?—Yes.

1021. Do you think that if that change were made it would tend at all to diminish the individual responsibility of the other Commissioners?—I think there is an inevitable tendency to refer upwards when there is a superior authority to refer to.

1022. And do you consider that would be desirable?—I think not; I think it would cause a block in the work.

1023. Now with regard to the relation of the Commissioners as at present constituted to local authorities, has there ever been any reluctance on the part of the Commission to consult and give due weight to the representations of local

Sir *Andrew Scoble*—continued.

authorities?—Not in my experience. The objections of local authorities to published schemes are always analysed by an Assistant Commissioner. The whole correspondence, with his analysis, goes before the Commissioners, and the substance is brought by the individual Commissioner before the entire Board; that is the practice.

1024. That is the course of proceeding?—That is the course of proceeding. I do not think any substantial objection ever escapes proper attention.

1025. For instance, would you use the individual discretion of each Commissioner of which you have told us to stop any proceedings which had been initiated at the request of a local authority such as a county council or municipal body?—If the work was initiated by a local authority, one would hesitate very much more about stopping it than if it were of one's own initiation. In my answer to the Chairman I was rather thinking of what one might have started with one's self, and of a case where one might have been moved by some reason which proved insufficient.

1026. Have you ever known any case in which proceedings initiated by local authorities have been stopped by the individual discretion of a Commissioner?—I think it is a very improbable thing.

1027. You cannot remember any?—I cannot remember any.

Chairman.

1028. What proportion of cases are initiated by a local authority?—I could not give any figures. We very constantly receive initiation from outside bodies, and very often act without it.

Sir *Andrew Scoble.*

1029. But whenever proceedings are instituted by a local body, I presume the Commissioners feel bound to thrash them out thoroughly, and to come to a conclusion about them either favourable or unfavourable?—Yes. If a town council sent us a letter saying that they were dissatisfied with the local grammar school, or the way its governors were appointed, or anything of that kind, we should, of course, take notice of it at once.

1030. Now with regard to schemes which are initiated by yourselves, at what period in the proceedings is the local authority usually consulted?—Not usually until a scheme is formulated. Discussion with the trustees, more or less confidential, is the first formal step, and then if one can see one's way to a presumably good scheme a scheme is drafted, and then sent in draft to the local authorities and all persons concerned, and advertised in the local newspapers.

1031. Sending to the local authorities is a matter of course, is it not?—Yes, a matter of course; it is done regularly.

Mr. *Egerton Allen.*

1032. I want to ask about the use that has been made of endowments left for apprenticing boys in getting funds for educational schemes. You said yourself in answer to one question that you

Mr. *Egerton Allen*—continued.

you drew a distinction between endowments for education and endowments for the poor; would you put endowments for apprenticing under endowments for education, or under endowments for the poor?—I did not intend to make that division between endowments: Endowments for education on one side, and endowments for the poor on the other; because many of the endowments are educational endowments for the poor; many are educational endowments for all classes. I am afraid I must have been misunderstood. Of course there are endowments for the poor, and in those cases a particular section of the Act which I quoted would apply, namely, that due regard must be had to the educational interests of the class of persons entitled.

1033. May I refer you to paragraph 6, of the Summary of 1887, where it says, that "the application of non-educational endowments to educational purposes under Section 30 of the Act of 1869 has been beneficial," would an endowment for apprenticing be a non-educational endowment within the meaning of that section?—Yes, if it stood by itself it would be; if it was for apprenticing boys attending an endowed school, it would not be.

1034. Then without the consent of the trustees, funds for apprenticing cannot be employed, unless their special class is mentioned for educational purposes?—No.

1035. Have you found any desire on the part of localities that such funds should be employed and trustees objecting?—We have had people in the locality wishing it done and trustees objecting.

1036. Do you think that legislation would be useful for the purpose of including apprenticeship funds in educational endowments?—I do not think that any great effect would ensue from the carrying out of the suggestion of that paragraph 6 in the Report of the previous Select Committee; the suggestion of that paragraph is, that the concurrence of a local representative body should be substituted for the consent of the trustees. I do not think that it would make any very great difference. I do not find there is a strong desire in representative bodies to convert these non-educational charities to education.

1037. Do you think it would be advisable, from an educational point of view, that these apprenticeship funds should be convertible to education without the consent of the trustees?—I think apprenticing funds in many places are found to be somewhat obsolete, and it would be well that in such cases the conversion should be made. I am discriminating between apprenticeship funds and other classes in Section 30.

1038. I wish to discriminate between apprenticing funds and the other classes of funds; Doles, say, under Section 30?—Apprenticing funds are so nearly educational that it is a very small step from apprenticing to education.

1039. You said in one of your answers that the consent of the trustees could not be got without a consideration for the enlargement of the body of the trustees; what sort of a consideration did you mean?—I think I remember the phrase; it may have been an unfortunate one. I think it was used to explain why, in some cases, the representative element had been not so prominent as it would have been, and I said that in some cases trustees had a power to give a consent, and then of course they were in a position, so to speak, to take a consideration for their consent. That is what I meant, that the trustees might make terms.

Mr. *Egerton Allen*—continued.

1040. What sort of consideration?—I have known this, for instance: I have known a case of trustees of, I think, an apprenticing charity, at all events a charity under Section 30, wishing to have it converted to education, but saying, "On this condition, that we remain the trustees." Then the question comes, Are we to decline this money because they make that condition, or is it on the whole better to take the money for education and let the trustees manage it?

1041. In paragraph 11 of that Summary I find this passage: "Reports upon the actual condition of the schools should be periodically laid before Parliament. Those reports should be published in the locality in a cheap and convenient form." You were not asked whether the recommendation contained in that last sentence had been carried out?—I looked upon it as being something beyond us; that it was a recommendation to Parliament that some organisation should be established by which Parliament should receive periodical reports. I did not imagine it to mean, I have never read it as meaning, that we should supply reports; we have not quite the means of doing that.

1042. I was only asking for information; they have not been made?—No reports are made to Parliament on the actual condition of individual schools, that I know of; certainly not through us.

Mr. *Lawson.*

1043. In 1874 the separate existence of the Endowed Schools Commission was brought to an end?—Yes.

1044. Was that with the consent or by the recommendation of the Commission itself?—Not at all with the consent or by the recommendation of the Commission itself, but purely as a Parliamentary proceeding.

1045. Was it done with the approval of the Commission?—No; I think I may say that it was done as one of the consequences of a change of Government.

1046. Do you mean to say that it had some taint of party politics about it?—Very much. The existence of the Endowed Schools Commission at that time became a rather burning political question.

1047. Do you think it was a disadvantage looked at from the point of view of the work to be done?—I am bound to say that at the time, being a servant of the Endowed Schools Commission, I naturally regretted very much the change; I could not at once perhaps, see it quite from an impartial point of view; I was secretary at the time; but I have often thought that there would have arisen considerable difficulty if the old commission had gone on because of the need which would have arisen of constant communication with the Charity Commission.

1048. Do you believe that there is any necessary connection then with the Charity Commis-

Mr. *Lawson*—continued.

sion in the great part of your work?—I think there must be; because first of all an endowment under the Endowed Schools Acts does not cease to be a charitable trust; every endowed school is a charitable trust, and is subject to all the incidents of a charitable trust.

1049. But is there not a wide difference between your work and that connected with the other charities; because in the one case there is a judicial decision in the place of the old Court of Chancery, whereas you act under statute and are bound entirely by the provisions of Acts of Parliament?—Just so; there is that difference.

1050. Your work proper, I take it, is not in any way judicial?—We have, subject to appeal, to interpret certain clauses of the Endowed Schools Acts; we have to decide as far as we can judicially certain points; whether an endowment is denominational or not, for instance, within the terms of the Act; and that decision, originally, of the Endowed Schools Commissioners and now of the Charity Commissioners, is subject to appeal to the Judicial Committee.

1051. But is not that rather part of the ordinary administrative work of interpreting Acts of Parliament by which you are bound?—Except that there is this special appeal to the Judicial Committee.

1052. Of course I know that you sit on the Board of the Charity Commission?—Yes.

1053. And you have of course an equal vote with the other Commissioners on all subjects brought before you?—Yes, we are all equal in that respect.

1054. At the same time there is a wide distinction between the two classes of work?—Yes, there is a clear distinction between the work which Sir George Young and myself do, and that which the other three Commissioners do in our own rooms.

1055. Properly speaking, of course your work is educational, and would form part of an organised department of education if there were such?—The educational side of our office, I presume, would in some way be brought into relation with a central ministry of education.

1056. If the system of education in this country is further organised it would be almost necessary to bring you within the scope of that department?—I think the educational side of our duties would almost necessarily come within the scope of that department.

1057. So far as charities other than educational are concerned, you only deal with them under Section 30 of your main Act; is not that so?—And also under Section 24; because a vast number of charities are not wholly educational, but are partly for educational uses and partly for other charitable uses; and then we have under Section 24 a power under certain restrictions laid down in that section to deal with the whole endowment as if it were an educational endowment. Therefore our schemes do to a certain extent touch almshouses, pension funds, and so on.

1058. But I suppose in the practical distribution of the work, where there is a mixed charity of that kind, a separation is made of the two accounts, and they are virtually made into two

Mr. *Lawson*—continued.

charities?—Usually they remain under one governing body, but an apportionment, it may be of capital, more often of income, between the two is made by the scheme. The charity may be all under the administration of such and such a governing body which will manage the school, and will perhaps also manage almshouses or whatever it may be, the funds applicable to the two sets of purposes being defined in the scheme either in figures or by a proportion.

1059. Would it be a practical advantage for your work supposing you were brought into closer contact with, or that you were put into a subordinate relation to the Education Department?—I think as regards the endowed schools work we are distinctly subordinate to the Education Department now.

1060. But I mean in your daily work?—As regards our daily work we are doing very different work from that done by the officials in the Education Department.

1061. I will take the question of inspection; who are your inspectors?—We have, properly speaking, no inspectors, but we have certain Assistant Commissioners who are employed to assist us in the work of the Endowed Schools Acts, and we have from time to time told them off in the intervals of other work to inspect schools. Our Assistant Commissioners are all of them men of legal training, and all are university men.

1062. Are they also experts in teaching?—I would not say in teaching. We have never instructed them to examine.

1063. But I suppose they have to ascertain whether the system of instruction is efficient, and adapted to the needs of the times, and that sort of thing?—They are men, I think, of sufficient university standing to be on a level with headmasters for the most part; and I think they probably have a fair general knowledge of what a public school should be.

1064. Supposing secondary education were in some way supervised by the State, of course functions such as these must be done by inspectors of education?—I suppose that is so.

1065. What powers have they in dealing with schools generally?—In the case of inspection do you mean?

1066. Yes?—With regard to this inspection by our Board, it is not very easy to say what is the exact position of that, because the Assistant Commissioners are appointed for a definite statutory work which is defined in the Endowed Schools Acts; but out of regard for this recommendation of the Select Committee of the House of Commons, and from our own conviction of the great advantage of a certain amount of inspection, we have rather perhaps strained the position in order to comply with that suggestion. Under the Charitable Trusts Acts of course we have power to inquire and to inspect, to get any information we like about a charity; but the men who are actually used for this special purpose are not the men appointed under the Charitable Trusts Acts, but the men appointed for the temporary work under the Endowed Schools Acts.

1067. Under those Acts they have, of course, a statutory

Mr. *Lawson*—continued.

a statutory power of entering, have they not?—They have a statutory power under the Charitable Trusts Act, and that is transferred to the Endowed Schools Acts by a definite provision in the Act of 1869.

1068. Have they no power of examination?—I do not know that the power would fall short of examining, but we have not, as a matter of fact, instructed our Assistant Commissioners to examine.

1069. But do they in practice do what the inspectors to some extent in the primary schools do, take into account the general efficiency of the school; do they look into that?—Yes, if it is desirable. I could refer to the passage in one of our reports in which we set out the instructions which were given to an Assistant Commissioner before going.

1070. You may give the reference and then we can look at it?—The inspection report, I may say, is such as read side by side with an examiner's report (and examiners' reports are also sent to us very largely), enables us to form a very fair opinion about the whole efficiency of the school.

1071. A Royal Commission has been appointed to inquire into secondary education?—It has.

1072. That of course must closely touch the work of your office?—Yes, I think so. I was before them yesterday.

1073. And of course I do not know what the report or opinion of those gentlemen may be, but I suppose you have no doubt that if any alteration is made in the organisation of your office, you should be brought under and be made part of the Education Department?—Presuming that the Education Department receives a different definition of its duties from what it has now, when it is simply a committee for elementary education; a ministry of education would, I presume, if established, include in some way or other the educational side of our office.

Chairman

1074. You are aware of the Report of the Committee of 1884, which inquired into the constitution and powers of the Department which administers Education, Science, and Art?—I do not remember its terms.

1075. You will take it from me that there is such a report?—Yes. I was examined before that Committee.

Mr. *Lawson.*

1076. Would there be a difficulty, do you think, in separating your work once more from the general work of the Charity Commission?—I think there would be a great deal of practical difficulty, because we are continually interchanging papers and views.

1077. A practical difficulty only exists to be surmounted?—I do not myself, at present, see how it could be done, the intermixture is so close, and it is to be borne in mind that the administration of the schemes is, generally speaking, with the Charity Commission in its permanent sense.

1078. May I refer you to your evidence before the Committee of 1886, and ask you whether you take into account the opinion expressed by several witnesses, notably Mr. Bryce (who was once an Assistant Commissioner, I think) at Question 5511, that the "Ladder" system was doing a certain amount of mischief in the country "in taking too large a number of children away from manual labour and overfilling what may be called the clerkly class"; has that influenced you in your policy since that time?—Yes; I think I could refer to a paragraph in one of our recent reports in which we laid some stress on the importance of developing what I may call the technical side of secondary education.

1079. How have you done it?—We have at the present moment a scheme before the Education Department, which if it is carried into effect, will create what is known as a Polytechnic in the City of London, where there would be evening classes in technical subjects and possibly a day school also. It is Sir John Cass's Charity in Aldgate I am thinking of; it is a very valuable charity, and its principal function will be that in future.

1080. Take a typical grammar school; in what way do you change your scheme in reorganising the grammar school on the request of trustees, so as to develope this side of education?—If it were a grammar school in a country town and were the only secondary school there (we have to consider the interests of all classes), we should probably find that a good many middle-class people wished not for technical education but for something more literary; so that it is very difficult to say in a case of that kind whether we should be justified in throwing the stress of the endowment upon one particular kind of education, which would perhaps exclude a very large part of the population.

1081. But it is within my knowledge, and of course within yours, that even in our big public schools there are now technical schools set up; do not you have technical workshops?—Yes. I could show many schemes in which we have directed the establishment of laboratories and workshops, in recent years more particularly.

1082. That is part of your settled policy in every case, is it?—I would not say in every case, because sometimes we are bound by limits of finance, for instance, and sometimes the setting up of a laboratory, and proper technical or scientific teaching is too expensive; but, to a certain extent, the assistance we are getting now from county councils works in aid of provisions of that kind.

1083. Do you not think that in view of the complaints made against purely literary education, in dealing with endowments meant for the educational wants of the poor, that should be your policy?—I did not understand that the question was limited to endowments for the poor, I was thinking of grammar schools at large. They were, as a rule, left for all classes.

1084. The opinion was expressed by the Committee, and the original Commission, that they were meant to be open to all, and the pick of the poor?—Yes.

1085. And that would include those likely to do well in manual craft, as well as the arts?—Yes; but in very many cases the number of the poorer classes who will get into a local grammar school is not very large; and they have, in many of those cases, simply to fall in rank with the rest

Mr. *Lawson*—continued.

rest of the school; so that this technical development is more usual in large centres of population, and where we have large endowments to deal with.

1086. Dealing with the grants made by county councils, do they supply you with money for that particular purpose in most counties now?—They do not pay it to us in any way; I understand that what is done, at all events in Surrey, is that the county council pay to the governors a sum of money which is sufficient to pay the salary of a scientific expert as teacher; they, practically, pay the salary of a master.

1087. Yes; but he lectures abroad, I suppose, all round?—No; I think he is an additional master in the school.

1088. Is that only in Surrey?—I happen to know that that is the way they have worked in Surrey.

1089. What about London?—I believe that the London County Council is going upon the plan of making grants in many cases for apparatus, laboratories, and so on, and also an annual sum, sometimes as much as 500*l.*, in aid of the general expenses of the school; the county council reserving to itself the discretion to be satisfied that the scientific and technical work is being adequately provided for. I believe that is the plan on which they are working; but of course the secretary to the Technical Education Board would give much more precise information. I say that from several interviews I have had with him.

1090. Have you direct communication with the county councils?—Yes.

1091. And personal?—Personal communication I have had frequently with the secretary to the Technical Education Board of the London County Council.

1092. When you now draw up a scheme, do you forward it in every case to the Committee of the London County Council?—London schemes all go to the London County Council direct, and by them are referred, I believe, to the Technical Board.

1093. But what about other counties?—In country districts?

1094. Yes?—Yes, I should always send a scheme to the County Council; I should think that has always been done; certainly it would be my impression that it has always been done.

1095. And to municipal corporations?—To the municipal corporation of a borough in which the endowment is.

1096. And have you been able to fall in with their advice in most cases?—So far, we have worked most harmoniously with county councils; in fact, by joint action we have been able to do what I think neither the county councils by themselves nor we by ourselves could do. I could give an example of that if the Committee wish. For instance, there is a large building in a small town in Kent, for which there was no very good purpurpose. It is an ancient college. In concert with the County Council of Kent and the County Council of Surrey we have established a scheme under which those two county councils will maintain in that building an agricultural school and college for the benefit of Kent and Surrey. Now, the County Council, depending upon annual

Mr. *Lawson*—continued.

grants of money itself, could not embark upon such a project as that, and could not build a school; we, on the other hand, had a large building and no sufficient endowment to utilise it with; but by coming together in that way we have produced a scheme which I hope will be a great benefit. I understand that these two Councils purpose to spend some 4,000*l.* a year in maintaining an agricultural school in that building.

1097. Do you think any statutory alteration is required to bring you into closer contact with local bodies throughout the country, or do you think that at present the existing arrangement is satisfactory?—At present we are encouraging local bodies, as far as possible, to communicate with us, and especially the County Councils.

1098. It is all informal, of course, in a way?—It is not provided for in the Act.

1099. You do it of your own free will?—We do it because we think it is in the public interest that it should be done.

1100. You think that there is no need for any further legislation?—I think there is no need for legislation to quicken our desire to take every opportunity of working with the County Councils. I think we have been forward rather than otherwise in approaching the County Councils.

1101. Have you complied with their wishes as to representative trustees?—We ask them whether they will consent to name governors, and in many cases what number they think would be most convenient.

1102. In all cases as to number?—I do not think that we have ever differed on the point of number.

1103. Not with the London County Council, for example?—I think there was one case in the London district, where the County Council wished to have a larger representation.

1104. And you did not see your way to give it?—If I remember right it was not done because the board was already very large; it was a complex case; it was a combination of charities; and to have increased one element would have rather dislocated the balance which we had arranged on agreement between different parties.

1105. Is it your experience and within your knowledge that representative trustees fulfil their duties as well and as constantly as others, or better?—As regards attendance, I am bound to say that I have had complaints of the non-attendance of some classes of representative trustees.

1106. What classes?—Well, I will say frankly that I have had complaints of the non-attendance of representatives of the London School Board.

1107. Not of the London County Council?—No, I have not heard that of the London County Council.

1108. They are elected in a different way?—I have understood the case to be that the London School Board offer the appointment generally to the local representative, and he, being a very busy man, has taken it, but probably cannot find the time to attend to the business; and the result was, I found, in one case several consecutive years during which the representative had not attended.

1109. This is only the case of the London School

Mr. *Lawson*—continued.

School Board?—It so happened that that was brought before me, and I mentioned the case to the School Board; and I have no doubt it will be corrected.

1110. With regard to other representative trustees, how do you find that they do their work?—I think as far as we can judge there is not much to choose between the regularity of attendance on the part of representative governors and co-optative governors.

1111. In the case of a nominee of the owner of a particular estate (an example of which was given) is it your belief that they generally do their work?—My belief is that they generally do not attend.

1112. And therefore a representative trustee would be better as far as that goes?—Yes; appointments of that kind are rather in the nature of complimentary appointments, by reason of some donation or gift; and the donor having that acknowledgment is then satisfied.

1113. You do not recommend that?—No, I do not regard that as a matter of policy, as being desirable. At the same time when, as in the case mentioned of a late noble Duke, anyone is good enough to give 20,000*l.*, I am extremely willing to give him some nominations on the governing body.

Chairman.

1114. A *quid pro quo*?—A *quid pro quo*, certainly.

Mr. *Lawson.*

1115. Is it the practice now to follow the practice given by the law officers, mentioned in your evidence of 1886, that vicars and incumbents of parishes ought not to be *ex officio* members of Boards of Trustees?—That is a matter of pure law and of course we follow it. In cases where a certain section, Section 17 of the Endowed Schools Act of 1869, is to be introduced, then unless the case is covered by a further section in the next Act of 1873, we cannot make an *ex officio* ecclesiastical governor.

Mr. *J. W. Lowther.*

1116. I do not propose to take you over the wide field which you have just traversed, but I will come back to the point we have to consider in this Committee. First of all take the question of Parliamentary control; it is your conviction, I understand, that you are now under strict Parliamentary control?—Yes.

1117. Such as was contemplated by Mr. Forster in the speech which you read to us?—Yes; the only difference being, I think, that whereas he contemplated that every scheme should go before Parliament, Parliament subsequently determined that only opposed schemes should go before Parliament.

1118. But every scheme goes before the Education Department?—Yes, and is approved by a member of the Government.

1119. And, therefore, you are under the direct control of the Government of the day?—Yes.

1120. Sometimes for the better and sometimes for the worse, from an educational point of view.

Mr. *J. W. Lowther*—continued.

I will put it this way: that sometimes you find that your schemes do not advance, and sometimes they do advance more rapidly?—Yes, there are varieties of that kind.

1121. Sometimes schemes are hung up in the Education Department for a considerable period?—Yes, that has happened sometimes.

1122. Due to political pressure?—I do not know whether I ought to judge the motives which decide the superior authority.

1123. Are you guided by the decisions which from time to time Parliament gives upon such schemes as are brought before it?—Certainly; we take note of everything.

1124. If you find that Parliament reject certain clauses in schemes brought before Parliament, you are careful to avoid placing such clauses in future schemes?—Certainly.

1125. Because you consider that that is an indication of the view of Parliament upon those matters?—Yes.

1126. And you would not, of course, time after time go on inserting into schemes clauses which you found that time after time Parliament rejected?—No.

1127. In the framing of schemes there are, of course, great differences between the procedure carried out under the Endowed Schools Department and that under the Charitable Trusts Department?—Yes, the procedure is different.

1128. For instance, in initiation; on the endowed schools side all the initiation rests with you?—Yes.

1129. And on the charitable trusts side the initiation must come from outside, except in certain cases?—Yes, that is generally true.

1130. In the operation of the schemes the Charitable Trusts Department can only act within the doctrine of *cy-près*?—Yes.

1131. You can act within the four corners of the Endowed Schools Act?—Yes.

1132. As to the procedure for the establishment of schemes, the mere sealing of the order by the board is sufficient for a charitable trusts scheme?—Yes.

1133. But in the case of your schemes, a scheme has to be submitted to the Education Department and approved by Her Majesty?—Yes.

1134. And lastly, in the matter of appeals, the direct appeal from the decision of the charitable trusts work is to the Court of Chancery; the direct appeal in the matter of the endowed schools' work is either to the Education Department or to the Queen in Council, when the matter is heard before the Judicial Committee?—On certain points specified in the Act there is an appeal to the Judicial Committee of the Privy Council.

1135. Now, you read to us the evidence of Lord Lyttelton given some years ago; and I gathered from it that in his view it was desirable to introduce the local element at a very early stage of the proceedings in the framing of schemes?—Yes. The intention of the Schools Inquiry Commissioners was that the work should be initiated in the districts.

1136. With the great experience that you

Mr. *J. W. Lowther*—continued.

now have of the working of the Commission, do you think that it would be possible to introduce the action of local bodies at so early a period as that contemplated by Lord Lyttelton?—I doubt whether that could now be done with advantage as regards the old grammar schools; but if, under any future arrangement, new schools are to be established, say out of the local taxation money, I should think it might be useful that the suggestion or the initiation of such new schools should lie rather with the local people than with the central office.

1137. Do you think something in the nature of the scheme of the Welsh Intermediate Education Act would be possible?—Without going so far as the Welsh Intermediate Education Act goes, I think that if we had local areas of sufficient size and local bodies to co-operate with us, we could leave with them a good deal of the initiative of all new work.

1138. The actual drafting of the scheme and the putting it into shape is a matter, I presume, which you could do a great deal better, with all the experience and the precedents that you have, than a new body coming to it for the first time?—I think so. A new body otherwise would have to employ legal assistance, and that would be expensive, and rather wasteful, I should think, if there is a central body like ours which has had experience and has the means of doing the work.

1139. You have in your Department a legally qualified draftsman, who is in the habit of drafting these schemes, and who, of course, has all the common forms at his fingers' ends, and the experience of many years to guide him?—Yes; and, I think, therefore, he would be able to do the work better than any new officer elsewhere.

1140. But what you might call heads of schemes could equally well be suggested in the localities as in London, could they not?—Yes, I think it would be far the better plan that the initiation, if it arises in localities, should take the form rather of suggestions for a scheme than of an actual scheme drafted by a legal draftsman.

1141. Can you say at all how much of your work has been completed. Perhaps I ought to put it in this way: When the Commission was established the number of schools coming within the Endowed Schools Act was pretty well known?—Yes, it was, of secondary schools.

1142. Can you say how many of those you have dealt with for the first time?—It is difficult to answer the question, because so many things have happened in the way of amalgamating schools, and dividing endowments into more schools than one, and so on, so that we have no longer quite the same basis, that is to say the total numbers would not be the numbers now; but taking London, for example, I think of the schools named in the Schools Inquiry Report, as grammar schools there would not be above half-a-dozen that have not been dealt with now in some form.

1143. About half-a-dozen have not been touched at all, that is to say?—Not more than that number of foundation grammar schools. When you say "not touched at all," I should rather say, "have not received a scheme;"

Mr. *J. W. Lowther*—continued.

because often governors of schools come to us and negotiations proceed up to a certain point, and then, for some reason, the matter stops; and so we have had some touch, probably, with almost every endowed grammar school.

1144. But the great bulk of the work has been done; I do not say that some does not want redoing from time to time, but the great bulk has been done?—Yes. Take the grammar schools, which were about 750 in number, in the Schools Inquiry Report; no doubt by far the greater number of those have received schemes.

1145. And doubtless the greater attention which is now being given to educational matters requires that, from time to time, the schemes which were made some years ago should be revised and should be brought up to date?—Yes, constantly so, for reasons which I have already mentioned; sometimes the enormous change in the value of the endowment in the last 20 years or so, and sometimes complete changes in the character of the population of districts in large towns, especially in London.

1146. Do you find that the opposition to your scheme is diminishing, or that it is increasing; I will put it in this way: Do you find that more of your schemes come before the House of Commons of recent years than in former years, or the other way?—I think there are fewer now.

1147. Do you attribute that in any way to your closer connection with Parliament through the Fourth Commissioner, the Parliamentary Commissioner?—I think it is partly due to that. I think also, as I mentioned before, that the Report of the Select Committee of 1886–87 made a considerable difference, and so to speak, rehabilitated the Endowed Schools Acts.

1148. Do you find that you are brought into closer touch, of recent years, with Members of Parliament personally than you used to be?—Yes, I think that is certainly so. I receive myself now more official visits from Members of Parliament, in the last four or five years certainly I have done so, than was the case with the Commissioners 15 years ago; very many more.

1149. You have been taken through the recommendations of the Committee of 1887; there were one or two about which I should like to put a question or two to you; take paragraph 8 of the Summary, for instance, on page xii.; do you always find that the views of the local representative bodies are in accord with what you may call advanced educational views in London?—No, I cannot say that the local view is always in accord with advanced educational views; I have found the contrary sometimes.

1150. On this very matter of the diversion of the endowments for the education of boys to the education of girls, do you, or do you not, find the very greatest opposition on the part of the local representative bodies to any such diversion?—I cannot say that I have found much unwillingness to give girls what I may call their share in these endowments. I think that more and more the public have come to see that girls ought to have, and that in the public interest they should have, their fair share of these endowments; and I do not

Mr. *J. W. Lowther*—continued.

not think that a proposal to establish an upper school for girls, if it can be done without entirely, so to speak, robbing the boys, is otherwise than welcomed now for the most part.

1151. That is rather a modern development, is it not; a few years ago it was not so?—I cannot say that I have experienced very strongly any general objection on the part of the public to our doing what we can for girls.

1152. You have been asked with reference to the representation of certain individuals upon boards of trustees and governors; I suppose that the chief reasons why those were introduced are pecuniary?—I should say the most frequent case is that of a descendant of the founder himself; the founder has perhaps prescribed that his heirs should always be managers of the school; this is probably continued under a scheme. But there are cases also where we bring an individual in, in an hereditary position, afresh; and where we do that it would almost always be because of some large gift or donation.

1153. Do not you think that a man about to found a charity would probably be more inclined to endow it liberally if he thought that his descendants would always be connected with the management of it than if he thought that it was going to be taken over promptly by the parish or county council, and administered by them?—I could imagine that that motive would influence a founder, certainly.

1154. That is human nature, is it not?—I think very likely it is.

1155. With reference to the question of publicity, it is to your interest, is it not, to make your schemes as public as possible?—Certainly; I certainly think so.

1156. Because in sending them to county councils, for instance, you get intelligent criticism of your schemes?—Quite so; and more than that, difficulty might arise at a late and inconvenient stage if there were insufficient publicity.

1157. And if they agree with you in your scheme, you have the advantage of their support?—Certainly; and also from time to time we get an improvement in a scheme from local criticisms.

1158. You have been a good deal inquired into this year, I think, have you not, or rather your work; I do not mean you personally; but your work has been subjected to a great deal of inquiry this year?—Parliamentary, do you mean?

1159. Departmental, Royal Commissional, if I may use the term, and Parliamentary?—Last year there was a Departmental Committee which inquired into us.

1160. During the last six months?—About last November, I think.

1161. And now, as you say, that is a Royal Commission; the Royal Commission on Secondary Education?—Yes.

1162. And that Royal Commission is considering most of the questions that Mr. Lawson put to you just now?—Yes; a great deal of it will no doubt come before the Royal Commission.

1163. You have given very full evidence before it, I believe?—I was there yesterday for three or four hours.

1164. And the question of increase of staff of your department has been inquired into at the Treasury recently, has it not?—Yes.

1165. Has anything been done in consequence of that inquiry?—No change in the staff has taken place in consequence of it.

1166. Do you know if anything is contemplated; I do not ask you for the Report?—I cannot say that I do know if anything is contemplated.

1167. Do you know if the Report is going to be acted upon?—No, I do not know.

1168. Do you think that you derive advantage from sitting on the board with the Charity Commissioners, properly speaking, those to whom the administration of the Charitable Trusts Acts is given?—Yes; I think there is an advantage in learning how schemes work. Questions of doubt as to the meaning of clauses, and questions as to legality of proceedings under schemes, and so on, are brought primarily before the Charitable Trusts Department of the office.

1169. Your work is not judicial; you have no judicial functions, but notwithstanding that, you have very often to determine questions of law?—Undoubtedly.

1170. And in that respect you find the advantage, no doubt, of submitting them to the consideration of your colleagues?—Yes; what I was thinking of mainly in my former answer was that one sees at the combined board how the schemes themselves actually work, and where difficulties arise, and this helps to guide one in the future.

1171. And probably your colleagues benefit by your educational experience?—It is a matter of constant occurrence that the Commissioners on the Charitable Trusts side refer papers to the Commissioners on the Endowed Schools side of the office, in order to have the advantage of their experience.

1172. The Charitable Trusts Commissioners frequently, of course, frame educational schemes?—Yes.

1173. Under their Acts, I mean; not under your Acts, but under their Acts?—Under their Acts.

1174. Therefore it is a great advantage that you should be with them at the board, and should not be sitting separately?—Yes, I think we get a great deal of advantage from meeting together in that way.

1175. And, as you said just now, every endowed school is a charitable trust?—Quite so.

1176. And therefore is, in a sense, under the control of the Charitable Trusts Commissioners?—Distinctly so. After the scheme is

Mr. *J. W. Lowther*—continued.

established it falls into line with any other charitable trust.

1177. I understand that you have no suggestions to make as to future legislation?—No, I do not wish to make any further suggestions.

1178. Do you think that if you wanted further legislation to carry out your work you would receive sufficient momentum for carrying a Bill through, from your connection with the Education Department?—It gives us a Parliamentary head, who is a member of the Government, and generally a Cabinet Minister.

Friday, 4th May 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Freeman-Mitford.
Mr. Howell.
Mr. H. L. W. Lawson.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

Mr. DOUGLAS CLOSE RICHMOND, re-called; and further Examined.

Mr. *Freeman-Mitford.*

1179. I DO not propose to take you over the ground which you have traversed so ably before, so I have only a very few questions to ask you. There is one question I should like to ask you in connection with an answer you gave to Mr. Lawson, about the attendance of trustees. You spoke of the attendance of trustees as being unsatisfactory, or practically nil in some cases, did you not?—In the cases of some hereditary governors; I said that practically some hereditary governors did not attend at all.

1180. The representative trustees attended unsatisfactorily, you said, in some cases?—In some cases that have come to my notice.

1181. The only question I want to ask you upon that is, what means you have of ascertaining the attendance of trustees?—The means on which I relied for those statements was purely the reports of our Assistant Commissioners on inspections. They are instructed to inspect a school very completely, and, among other things, to ask questions of the governing body as to the attendance; and sometimes it has been reported to me that some classes of governors have attended irregularly and some otherwise.

1182. That leads me to another question in connection with your examination by Mr. Lawson. I imagine that your inspectors are in no sense educational inspectors, are they?—We do not use them at all for the purpose of the examination of boys or girls.

1183. They are simply inspectors appointed to see whether the requirements of your Acts are properly carried out; is that so?—The requirements, I should say, of the scheme by which the schools are regulated; to see that the scheme by which a school is regulated is being thoroughly carried out, and what the effects of that scheme may have been.

1184. Quite so; but in no sense are they educational inspectors?—They would enter into questions, if they were raised, as to the curriculum, whether the curriculum was such as was suitable to the place; whether the trustees

Mr. *Freeman-Mitford*—continued.

thought that some alteration ought to be made in the curriculum laid down in the scheme, and so forth.

1185. So far, I suppose, as to see that the objects of the trust were effected?—Yes, to see that the objects of the scheme are thoroughly and effectually carried out.

1186. That suffices me on that subject. Now I should like to ask you, is the work of the Charity Commissioners all done by Commissioners appointed under the Endowed Schools Acts?—All the work arising under the Endowed Schools Acts is primarily under the two Commissioners appointed under those Acts.

1187. Are there not two classes of work done by the Charitable Trusts Commissioners; first of all, in respect of educational endowments excepted from the Endowed Schools Acts; secondly, educational work arising out of the carrying out and the working of schemes made the Endowed Schools Commissioners?—Yes, that is quite true; in so far as educational endowments are excepted from the Endowed Schools Acts, they would be dealt with under the Charitable Trusts Acts, if at all; and also after a scheme has been made under the Endowed Schools Acts the administration of it passes to the Commissioners under the Charitable Trusts Acts.

1188. Therefore educational endowments of charities are subject to the Charitable Trusts jurisdiction, though, unlike other charities, they are also subject to the special powers of the Endowed Schools Acts?—Quite so; except for the making of schemes they are all subject to the Charitable Trusts Acts, none the less for being under the Endowed Schools Acts.

1189. That was the point I wanted to get out. Now, going more generally into the question of the position of the Commission. You have a seat upon the Charity Commission, have you not?—I am a Charity Commissioner.

1190. As much so as any other Charity Commissioner, although your special branch is the

Mr. *Freeman-Mitford*—continued.

endowed schools?—Yes, we all share the responsibilities.

1191. Therefore you have an exceptional, and I may say professional, knowledge of the status, the objects, and the working of the Commission?—Yes, I have means of knowing all that goes on whether in my own particular department, or in any other department.

1192. Then I should like to know from you whether, speaking as an expert, you have any fault to find with the present system?—As regards the working of the Endowed Schools Acts I presume you mean?

1193. No, I mean taking you away from that altogether, if you please. I want to take you now to the general question as an expert, although perhaps your special branch may be the Endowed Schools Acts; I should like to have your opinion, as a Charity Commissioner, and also as a member of the public, I may say, and a taxpayer, as to the general status of the Commission, as to its working, and as to its capability of improvement. I will come to the point I mean in the way of capability of improvement, afterwards?—I am content with the existing organisation for the present work which we have to do. I think that can best be done by means of Commissioners appointed on some such plan as now.

1194. That is your opinion, divesting yourself, as far as possible, of your official position?—Yes. I endeavoured to indicate the other day my view that the work I am particularly concerned in, being work of initiation, is most satisfactorily dealt with by a Commissioner who can devote his mind specially to that work.

1195. Yes; but I wanted you rather to get away from your own special work; I want to get you on the general question rather. I look upon you as an expert, as a man of long experience of the Charity Commission, and I should rather like to have your views as to its composition and working?—So far as I am able to judge the work can be done to my mind, better in the form of a Commission than by any ordinary departmental organisation.

1196. You would prefer the present Commission to an ordinary department of the Government with a Parliamentary member of the Government at its head?—I think so.

1197. Now do you not think that there is an advantage in the present neutrality of the Commission; that is to say, in there being no political bias one way or the other, in the Commission?—I think it is an advantage that we should be able, as we are able, and as we do, to divest our minds, as far as possible, of all considerations of political or religious preference.

1198. Now, do you think that if the present state of things were altered, and you had a department with a Minister, a member of the Government at the head of it, there would be any danger of, I will not say jobbery precisely, but something in that direction, for political purposes?—I imagine that the head of the office would then be subject to a good deal of political pressure personally.

1199. Would he not be subjected to great political pressure, in regard to the appointment of trustees on local charities?—I daresay he would be subject to that pressure.

Mr. *Freeman-Mitford*—continued.

1200. Would there not be liable to arise some complaints of the same nature as those which have arisen in regard to the appointment of magistrates, for instance; I am not speaking of one political side more than another; but would there not be a danger lest that sort of idea should spring up, that trustees were appointed on account of their political views?—I think the head of the office would in that case have to resist a good deal of pressure in order to as far as possible disengage himself from too much interference in individual cases. Such a multitude of these matters come before us that I think it would be quite impossible for any one head of the office to intervene personally all the way round. I think he would soon have to as far as possible stand aloof from personal intervention in the matter of the appointment of trustees.

1201. But I think experience has shown that that is almost impossible, because I imagine from your answers that you would apprehend that pressure would be put upon Members of Parliament, for instance, to get their supporters put upon trusts?—I suppose it is very likely that that would be so.

1202. And those Members of Parliament would go to the Minister for the time being and put pressure upon him; and would it not be almost impossible for him to resist such pressure as that?—That is a question on which I have no doubt Members of Parliament are better able to form an opinion than I myself; I can only speak from one's knowledge of human nature.

1203. Quite so; but I am asking you as a great expert upon the general aspect of the question, as I said before, attempting as far as you can to divest yourself of your official position; and you as a member of the public, and also as an old Civil servant, must know perfectly well that such pressure is brought. Is it your opinion that there would be danger of pressure being brought on Members of Parliament to exercise their influence with the Minister for the time being to get certain persons, who might be very worthy persons no doubt, but who might also be mere local busy-bodies, put upon these trusts, and thereby injure or run the risk of injuring the position of the trust?—I think I can best answer that question by referring if I may again to my own special experience where we are more particularly under political guidance; that is to say, the schemes with which I am directly concerned are only effective when approved by a Minister; but in my experience I have scarcely had any case, I cannot remember at the present moment any case, of intervention of that kind in a scheme under the Endowed Schools Acts.

Mr. *Oldroyd.*

1204. Referring to the question of the representative trustees, you made some statement that you had had reports of irregularity of their attendance to their duties?—I referred especially to an exceptional class, a very small class, of governors who are there for some hereditary reasons.

1205. But do you call those representative governors?—No, I should not call them representative.

1206. Not

Mr. *Oldroyd*—continued.

1206. Not in the usually accepted sense of representative?—No; I should rather class them as hereditary governors, if I might give them a name.

1207. Do you hold the same opinion with regard to the purely representative governors?—Generally I think the representative governors attend equally well with co-optative governors.

1208. And the cases that have been reported to you have not been systematically reported; but there may have been a casual report made in those isolated cases where your inspectors are making investigations as to the working of your schemes?—It did not come to me at all in the form of complaint from the public: but on inquiry we found that it was so. I have occasionally had it brought before me that there was a difficulty in obtaining a quorum for a meeting, and the reason was understood to be that some representative governors were people very busy with other public business, and, therefore, unable to attend with that regularity which would be convenient.

1209. I think you said that, in these cases of irregularity, you have made representations of the facts of the case of the irregularity to the elective authority?— There was only one case in which I did.

1210. That was in the case of a member of the London School Board?—Yes.

1211. Do you know the result of that?—No, I cannot say whether there has been any result from it.

1212. You cannot give us any general or specific illustrations of the result of appeals to the representative authority for the appointment of men who have time and leisure to carry out the work?—No. I have endeavoured from time to time to convey my view that it would be desirable that these bodies should not so much as they do elect simply out of their own body, but, if possible, should go beyond and choose men with more leisure; but I cannot say whether that has been acted upon to any great extent.

1213. As a Charity Commissioner personally you have had experience of the general work of the Commission, that is, inclusive both of the charitable trusts work and endowed schools work?—Yes.

1214. At the same time you have more specific knowledge in detail of the endowed schools work?—Yes.

1215. And as an Endowed Schools Commissioner you have had experience, more than others of your colleagues, of the initiatory stages of endowed schools work?—Yes; I have, roughly speaking, half of the endowed schools work under me.

1216. So that you have more specific knowledge of that branch of the work of the Commission than you have of the other branch under the charitable trusts?—Yes, very much more.

1217. And, *vice versâ*, the charitable trusts section of the Commissioners have more knowledge of the details of their branch than of yours?—Certainly.

1218. But your experience, sitting as a general Commissioner, has given you a general knowledge of the whole operations of the Commission?—Yes.

1219. Now I should like to ask whether, acting as a general Commissioner, you have felt restricted at all in your decisions from the fact that, when dealing with the charitable trusts section of the business, you have had less freedom of action than you have under the endowed schools section?—I am afraid I do not quite catch the point.

1220. There is a difference in your powers under the Charitable Trusts Acts and under the Endowed Schools Acts?—A very broad difference.

1221. That difference, under the Endowed Schools Acts, is a difference tending to freedom and elasticity?—Freedom in the sense of giving us initiatory powers.

1222. And those initiatory powers are broader and freer than under the Charitable Trust Acts, limited as they are by the doctrine of *cy-près*?—Quite so; under the Endowed Schools Acts we are limited only by the terms of the Acts themselves.

1223. From your experience as a Commissioner, do you think that it would be in the public interest for further Parliamentary powers to be given under the Charitable Trusts Acts similar to those given under the Endowed Schools Acts?—It would be a very large measure indeed to give the same sweeping powers for all charitable trusts as are given by the Endowed Schools Acts to a special class of charitable trusts. It would affect the whole law of charitable trusts.

1224. But have you not felt that the scheme under your branch, under the endowed schools side, have been freer and perhaps have a bolder nature than those under the charitable trusts side of the Commission?—Yes, that is so; undoubtedly.

1225. And have you not frequently had cases before you in which you have felt in the settlement of the schemes under the Charitable Trusts Acts that the public interest might be served by a greater liberty of action similar to that enjoyed under the Endowed Schools Acts?—I do not think the difficulty arises so much in the application or the limitation of the doctrine of *cy-près*, as on the point of initiation. The difficulty is that under the Charitable Trusts Acts we cannot act, speaking as a rule, unless the trustees come to us. Having once come to us, then the doctrine of *cy-près* is now tolerably elastic, and a good deal can be done under it. I do not think the difficulty arises so much there as in the question how to get the jurisdiction.

1226. Then so far as Parliamentary authority is concerned, you think it would be distinctly to the advantage of the working of the Commission under the Charitable Trusts Acts that they should have Parliamentary authority for initiation?—So that it might be possible to act without application from trustees in cases exceeding the 50*l.* limit which exists at present.

1227. I gathered from your answer to the questions submitted by the honourable Member who last examined you, that you regard the existing Commission as absolutely neutral, both in

Mr. *Oldroyd*—continued.

in matters of politics and religion?—I think we are very distinctly so.

1228. If you are so distinctly neutral you are not amenable to pressure from any side of politics?—We endeavour to preserve a mean position in all these matters.

1229. Have you pressure put upon you by Members of Parliament, or by others, with a political bias?—In my own sphere of work, I have already said that I do not know that I have ever been subjected to any sort of pressure as regards the appointment of trustees.

1230. You cannot give us any information as to the effective working of such trustees as have been elected on political grounds, or brought to the trusts by these gentlemen who are acting from political or denominational motives?—To speak generally, I have no knowledge of the reasons which actuate the appointment of representative governors under our schemes.

Chairman.

1231. That is entirely beyond your sphere?—Entirely beyond my sphere. I have never gone into it at all, and generally do not know whether there is a majority on one side or the other.

Mr. *Oldroyd.*

1232. So far as your knowledge goes of the trustees appointed by these representative authorities, they have answered the purpose for which they were appointed, and have been as efficient in their work as the co-optative trustees?—I think so, quite.

1233. And so far as political pressure is concerned, you say that having large experience of the action of your Commission, you have not known in any case any instance of political pressure from the Education Department as representing the Government of the day, either from one political party or the other?—As regards the work under the Endowed Schools Acts, you mean? No, I do not remember anything of the kind.

Mr. *Strachey.*

1234. You were speaking just now of hereditary governors; do you mean an hereditary right of nomination, or an hereditary right to sit on particular trusts?—I was thinking more particularly of an hereditary right to sit upon a trust.

1235. And do you mean by "hereditary," passing from father to son, or do you mean an hereditary right attaching to a particular house?—Usually from father to son; to the heir of a founder.

1236. Passing like an hereditary title?—Yes, like an hereditary title.

1237. Then it does not often happen that it is simply attached to a particular house?—I think not very often.

1238. Would you be inclined to draw a distinction between the two, I mean as a question of approval; because I rather gather that you do not disapprove of the hereditary principle?—I think when an ancester has himself founded a school, and has by his foundation appointed himself and his heirs always to be governors of it, we should naturally not interfere with that arrangement; we should continue it. I should not initiate it.

Mr. *Strachey*—continued.

1239. And do I gather that you approve of that principle, but not of the hereditary principle attaching to the ownership of a particular house or particular land?—I may say that personally I dislike all appointments of this kind, where there is no means of judging whether the individual would or would not be fit for the post; on that ground I am not in favour of anything of that kind if I can avoid it.

1240. You think it is against public policy?—Yes, against public policy. Still I think there are cases in which we may make an exception.

1241. Then I understood you just now to say that, as regards all political or religious matters, the Commissioners, very properly, divest their minds of them entirely; but do you draw any distinction between school boards and voluntary schools?—We are much more disposed to give powers of appointing governors to school boards than to voluntary schools, because the school boards are the constituted representatives of elementary education in their districts; and it is not very easy to get a satisfactory representation of voluntary schools. It is not infrequently done, but it is difficult to arrange it; the schools are not organised for such a purpose.

1242. I pass now to another point, whether the Commission divert charitable funds to the establishment of a middle class school; whether they are in the habit of diverting a fund left for charitable purposes, such as a free school for all classes, to the establishment of a middle class school which would be, in the very nature of things, restricted more or less to a limited class?—I daresay there are cases where a free school, which means a school for everybody, when we re-constitute it under a scheme, becomes of a type mainly accessible to those only who can pay a certain substantial fee, to speak generally. It is not for us, I think, to try to cover by means of endowements ground which is already occupied under the Elementary Education Acts, and the old free schools were usually founded, not for merely elementary education, but for something more.

1243. Then, with regard to these funds which you would take for the establishment of a middle class school, it would not be a free school; there would be a comparatively large fee?—Yes. "Free," I believe, means open to everybody and all classes, and not necessarily gratuitous.

1244. So I may take it that you do actually in cases divert money from the objects of a free school open to every one, to the purposes of a school which is limited and not open to everyone, from the fact of the fees being too high?—It would follow, no doubt, as an inevitable consequence that a school of that sort, if it has a very small endowment, and if it is to work at all, must charge fees; we cannot help that.

1245. And in some cases you actually suspend the operation of the charity entirely and allow the funds to accumulate, do you not?—We are not infrequently asked to do that, and it is sometimes the only thing to be done.

1246. Do I understand that you would not do that if, for instance, the town council of the place

Mr. *Strachey*—continued.

place remonstrated and objected to the accumulation?—Probably not, if we could see that there was an effective means of carrying out what was desired.

1247. Still you would consider that you were the better judges and not the town council, though it was the representative body?—We should not put out a scheme for the maintenance of a school if we were quite satisfied that the funds were insufficient.

1248. But if you considered them insufficient, and you were anxious to establish a middle-class school there, you would impound the funds of this free school and allow them to accumulate, notwithstanding such a protest from the town council?—There might be such a case; it is scarcely very likely, I think. Probably if a town council approached us in that way it would do so with good grounds for going forward with their proposal for a school, and we should naturally incline in favour of doing it.

1249. I understand that we are not to go into particular cases. I have a case in my mind in which I understand that you did, in opposition to the town council and their expressed wishes, do that very thing?—The honourable Member was good enough to give me notice of the question, and I have looked into it, and it is quite true that a certain town council did send us a resolution in favour of a school scheme, and thereupon we endeavoured at the earliest opportunity to go forward with the case. We took the matter in hand, but it appeared that there was no support for going forward, and the matter stopped.

1250. Meanwhile you are accumulating the funds?—Yes. The total sum accumulated in the last account was between 600*l.* and 700*l.*, which, with a building quite unfit, is wholly inadequate for establishing a school, though everybody wants a school there, and we shall be most happy to establish one as soon as the money is sufficient.

1251–3. You are most anxious, I may take it, to fall in with the wishes of the town council?—Yes, and we were moved by that particular resolution to start again, and were again stopped for want of means.

Mr. *Howell.*

1254. I should like to revert to a question already asked with regard to political pressure. Is it your opinion that there would be more interference in the shape of this pressure with charities and schemes, supposing a political head represented the Commission in the House of Commons, than is now exercised in reference to educational matters under the Committee of Council?—It is very difficult for me to gauge that matter, because I am not very familiar with the sort of pressure that a Minister may be subjected to by other Members of Parliament. I am no authority upon that.

1255. But your attention was drawn to that specific matter, and I wanted to know whether in your mind, so far as you see, there is any

Mr. *Howell*—continued.

probability of more pressure being exercised in one case that might be now exercised in the other?—As I said my experience under the Endowed Schools Acts, where we are really under a Parliamentary head, has led me to say that I felt independent of any sort of political pressure.

1256. Then practically the pressure is nil?—To me it has been practically nil, but I am speaking of course of what happens under the Endowed Schools Acts, and as regards my own particular work.

1257. I should just like to put this other question upon that, because a former answer of yours seemed to imply that there might be more pressure: but what ground do you think pressure would be greater under the control of a Minister than under a Board of Commissioners as now constituted?—My answer would be that a a Minister being a Member of Parliament is much more easily accessible than a Board of Commissioners half a mile off.

1258. But if the trustees were so constituted that there would be a certain number of representative trustees, these trustees would be subjected to political pressure of the same kind, or the bodies who appointed the representative trustees?—We should have nothing to do with that; we leave the body, whatever the political complexion may be, to make its arrangements in its own way; and we know nothing about pressure that may be brought to bear upon the electing bodies.

1259. You are governed by Acts of Parliament. What reason is there to suppose that you as a Board of Commissioners would be subject to any more political pressure under the changed circumstances than you are now?—The only reason that occurred to me at the moment was the one I mentioned, of the accessibility of a Minister.

1260. But a Minister himself of his own volition cannot change an Act of Parliament?—No.

1261. He would still be controlled by the provisions of the Act?—Yes.

1262. There are a few points which I wish to put to you with reference to the Report of the Committee in 1887. If you will turn to the Summary of that Report at page xii. there are some questions that I would like to get on the Notes on that matter. Will you look at paragraph 4. The Committee at that time made these suggestions; and I should like to ask with regard to paragraph 4 has the "scrupulous care" there insisted upon been taken "where endowments have been appropriated to the poor that the paramount interests of the poor should be secured in the application of scholarships or exhibitions provided out of the trusts funds"?—That is a matter that we are constantly considering and having before us, namely, the most effective way of doing for the poor what the Act indicates should be done. It is not always an easy thing to do, but it is a matter to which we are constantly directing our attention.

Mr. *Howell*—continued.

1263. And you have endeavoured to carry out the suggestion made in this Report?—Certainly we have.

1264. Then, in paragraph 6 the question of the veto of the trustees is referred to; and then the paragraph goes on, "but the veto now possessed by the trustees of such endowments, non-educational endowments, is in some cases a hindrance to reforms, and an inadequate protection for the poor;" has that been remedied since that time?—Not very much has been done under Section 30 of the Act of 1869 of recent years.

Mr. *Donald Crawford.*

1265. Am I right in saying that the powers of the Charity Commissioners under the Endowed Schools Acts differ from their powers under the Charitable Trusts Acts in these three respects: first, that as Endowed Schools Commissioners you have powers of initiation?—Yes.

1266. And you have, to the extent of the subject matter of your schemes, a larger discretion than you have as Charitable Trust Commissioners, because you are not bound by the doctrine of *cy-près*?—Yes.

1267. And, thirdly, you are under Parliamentary control?—Yes, under the direct control of a Minister.

1268. Taking the first two points, and taking first the power of initiation, do you see any reason why you should not, in the administration of charitable trusts, have the power of initiation also?—No. I think it is greatly needed.

1269. Then, on the second point of the larger discretion, I think you have already said in reply to Mr. Freeman-Mitford to-day, or to Mr. Oldroyd, that you thought it would be rather a large proposal to extend the wide discretion which you have under the Endowed Schools Acts to the whole field of charitable trusts. But would it be a bolder step, and a greater innovation than the Endowed Schools Acts themselves were at the time?—I understand that Parliament thought it was in the public interest that educational endowments should be subjected to a specially stringent jurisdiction and reorganisation. Whether that ought to be extended to charitable trusts of another kind is a matter, I suppose, that could hardly be settled without a great deal of inquiry and thought.

1270. Yes; but I suppose we are here to give it that thought. You say that Parliament thought it required a very stringent re-organisation; that is true; but then, on the other hand, it was investing the Commissioners with a very wide discretion, was it not, in framing schemes?—It established a new Commission under direct Parliamentary control to pass, in fact, Acts of Parliament for educational endowments, because every scheme under the Endowed Schools Acts, when approved by Her Majesty, has the force of an Act of Parliament, and is therefore a very different thing from a scheme under the Charitable Trusts Acts.

Mr. *Donald Crawford*—continued.

1271. Then I suppose you would probably connect the wide discretion that you have under the Endowed Schools Acts with the facts that you are in those schemes subject to Parliamentary control?—Undoubtedly that is so. I do not know whether I might be allowed, as the other day I made a very short quotation from a speech of Mr. Forster's, to make another short quotation. When the Endowed Schools Bill of 1869 was before Parliament Mr. Forster made a certain statement about its scope, which I read the other day. At that time Mr. Forster was not a Cabinet Minister, but I believe the carriage of the matter in the Cabinet was more particularly with the then Home Secretary, at that time Mr. Bruce, now Lord Aberdare. On the second reading of the Bill Mr. Bruce said this (this is in Hansard, Vol. cxciv, p. 1411): "There was no doubt that the powers proposed to be given to the Commissioners were arbitrary, and it was necessary that it should be so, but these Commissioners were but the creatures of the Government of the day, who would be responsible to Parliament for their proceedings; and that, he thought, would be sufficient to prevent any abuse of their powers." I mention it now, as that probably represents the view of the Cabinet of the day, Mr. Forster not having at that time a seat in the Cabinet.

1272. I suppose that educational purposes play a very large part in charitable trusts generally?—Very large.

1273. I do not know whether you would mind expressing your opinion on that; whether you think there would in principle be any objection to extending that large discretion which the Commissioners have in endowed schools schemes, subject to Parliamentary control, to charitable trusts generally?—I think, as I have already indicated, that the great remedy required is the power of initiation; that when once a charitable trust is brought within the jurisdiction by application, then the doctrine of *cy-près* gives a very considerable range of discretion, but the real difficulty is that the trustees need not come, and often will not come.

1274. If you had the power of initiation, the doctrine of *cy-près* being now very elastic, you think you would not be very much fettered?—No, I think not; I doubt if it would be worth while to try to upset so venerable a doctrine.

1275. Then passing for a moment to the last point, the Parliamentary control, I suppose it is a somewhat anomalous thing, whether it be desirable or not, that your procedure, and I might say your constitution, on the endowed schools side differs so greatly from what it is on the charitable trusts side?—Yes, I think it is anomalous. I think the position of the Commissioners under the Endowed Schools Acts is very anomalous.

1276. It is the later legislation; it is the later expression of Parliamentary opinion on the point, is it not?—Parliamentary opinion as regards the modification of trusts, you mean?

1277. Yes, as regards the modification of trusts?

Mr. *Donald Crawford*—continued.

trusts?—Yes, that, I suppose, is the later expression of it.

1278. Considering that the question of Parliamentary control has been so pointedly referred to us, do you think there would be any objection to extending the Parliamentary control which you are subject to under the Endowed Schools Acts to the remainder of your work, making the whole thing harmonious?—Of course it is almost impossible that the multitude of orders and schemes under the Charitable Trusts Acts should go before a Minister as is the case under the Endowed Schools Acts, so much of the work under the Charitable Trusts Acts is administrative and *quasi*-administrative, whereas under the Endowed Schools Acts there is one simple duty to perform, to make a scheme, and comes in a set form before the Minister, and he can approve it or disapprove it, as he thinks fit. The other work is so different in quantity and in kind.

1279. When you speak of administrative work, do you include the making of schemes under the Charitable Trusts Acts, or not?—I was referring to work other than the making of schemes—receiving accounts, giving advice, indemnities, authorising leases, sales, investments, and so on.

1280-1. But then, if in the matter of schemes you were put on the same footing under the Charitable Trusts Acts as you are under the Endowed Schools Acts, in matters of ordinary administration you would remain just where you are, would you not?—As regards administration; but the suggestion is that that also should be under a political chief, as I understand.

1282. Yes; no doubt the suggestion would be that he would have the responsibility for it?—Even in matters of administration?

1283. You think that that would be objectionable?—It does not strike me as being a very practicable arrangement that he should be responsible for the mass of detail work which goes on.

1284. The kind of analogy would be something like the Commissioners of Woods and Forests, who as you know have their own office, and despatch their business in their own names. In details they are never interfered with, but the Treasury is responsible for them?—Yes; but though I speak without knowledge I imagine that the work there is not of the same public interest as that which we have to discharge.

1285. There is another question I want to ask you on this point of placing a majority of representative trustees on governing bodies, which is referred to in your answer to question 859; are you familiar with the Scotch Educational Endowments Act, which was passed very much on the lines of the Endowed Schools Act of 1869?—I remember at the time when the Bill was being prepared noticing it; I have not studied it at all since.

1286. Do you happen to remember that that Act which was passed in 1882 contains this provision, that in all the schemes which the Commissioners draw up there should be a majority of representative trustees?—I was not aware that it was in that Act, but I think it appeared from the analysis of the return, or the summary of the return which was made to Parliament on the motion of the present Chairman, that in point of fact a very large majority of governors appointed under schemes made under the Endowed Schools Acts since 1887 are representative.

Mr. *Donald Crawford*—continued.

Mr. *George Russell.*

1287. I want to know what your practice is in this regard: I suppose you would admit that in most educational foundations dating from the year 1500 membership of the Church of England is generally taken for granted, if not laid down in terms; it is assumed in this way; if there is a provision for the children going to church, or being taught the catechism, or some other regulation which implies membership of the Church of England?—Generally speaking, I should say that in the Edwardian and Elizabethan schools, and in the Henry VIII. schools, there is very little said about religious observance. It is not an uncommon thing for a founder to say that statutes shall be made by the bishop, and then perhaps the bishop did make some specific regulation; but I think generally the charters are in the broadest possible form "for instruction in grammar and good learning of all who may come to the school," and so forth.

1288. Then if not under charters, surely under rules or bye-laws drawn up by the founder, you find provisions of that kind, regulations that the children should go on Sundays and Holy Days to church or that they should hear sermons, or that they should be taught the catechism?—There are cases of that kind, but most frequently of later date.

1289. Take any period to which those regulations apply; how far do you maintain them now; how far does a conscience clause operate?—A conscience clause for day scholars is imperative by the Act in every scheme, however denominational it may be. For instance, take a cathedral school, which is the strongest expression of it, there must be a day scholars conscience clause even in a cathedral school, whatever date the foundation was. But the question whether a school is to be treated as a denominational school under the Endowed Schools Acts or not is one of pure law. There is a section, Section 19 of the original Act, modified by another section in the Act of 1873, which gives us our guide, and under that we are subject to correction by the Judicial Committee, to form our opinion whether the endowment is or is not within the exceptions defined in the Act.

1290. I understand you to say that that applies to certain classes of schools?—That test is applied to all schools. The presumption is that they are open and free from restriction of a religious kind, but exception is made when we find a case falling under the strict definitions laid down originally in Section 19 of the Act of 1869.

1291. If I understand you rightly, those cases where the denominational character may be maintained do not apply to day schools?—The denominational character may attach either to a day school or to a boarding school, but even in a boarding school there is to be a day scholars' conscience clause.

1292. There is a conscience clause, at any rate, for schools where the boys are day scholars invariably?—Absolutely invariably, under the Act.

Mr. *George Russell*—continued.

1293. Is there any similar obligation with reference to boarding schools. Take, for instance, quite roughly, the Bluecoat Schools?—The schools which fall specially under that excepting section to which I have referred are exempt from any provision about a conscience clause for boarders. As regards other schools, non-excepted schools, the Act does not provide that a child in a boarding-house can claim exemption from the teaching in the boarding-house, but it does give him the right to claim that he should be provided for as a day scholar, and be allowed the benefit of the concience clause as a day scholar.

1294. You mean that none of them, none of the boarders, would be compelled to receive the religious education of the Church of England?—If the child is in a boarding-house, and the school is one of the excepted cases, there is no protection for him as a boarder.

1295. I thought you said he could claim to be treated as if he were a day boy?—In all the cases except the special ones which are defined as, so to speak, denominational; there he has not that remedy.

1296. The local sentiment in favour of undenominational education is in some cases very strong; and I wanted to find what regard was had to that where it existed?—I could answer that by saying that, subject to what is obligatory under the Act, we should, of course, as far as possible, consult the local sentiment. If a school is under Section 19, and in that sense denominational, we are bound so to treat it unless the trustees set us free.

1297. But I understand all boys who go as day boys, whatever kind of school they attend, have of necessity the relief of the conscience clause?—Yes.

1298. And as regards boys' boarding schools, whether they have that latitude depends upon whether the school is one of the excepted ones?—Yes.

1299. And can you tell me actually the number of schools which are denominational in the sense you have explained?—I have not that figure now before me. I did give it many years ago, in 1873, to a Select Committee; then the number was not very great, but I do not think I have anywhere just now a list of the cases which have been treated under Section 19, but they are decidedly a minority.

1300. Of your endowed schools altogether, the number of boarding schools is comparatively small, is it not; the great majority are day schools?—A very large number have more or less of a boarding element; they are day schools with a certain amount of boarding.

1301. Those schools you speak of as excepted in that sense are not usually exclusively boarding schools?—No, not exclusively.

1302. There is another question which I want to put to you relating to one of the recommendations upon page xii of the report of the former Committee about the diversion of educational endowments. I asked Sir Henry Longley a question the other day about that. You observe the report says: "The diversion of educational endowments from one locality decreasing in population to a neighbouring populous locality is sometimes necessary, but should only take place after the requirements of the locality have been met." I want to know what your practice is in this respect: Supposing that the decreasing place has its requirements abundantly met and admittedly met, and that some quite adjacent place, a place that was formerly a suburb and has now become the larger place of the two, desires to be included in the educational benefit, do you have regard to the desire of the outside place even if it was not specified in the founder's will?—It is quite within our scope, under the Endowed Schools Acts, to endeavour in that case to extend the benefits from the limited area which is over-supplied to the adjacent area which is without supply.

1303. I think when I asked the question the other day, Sir Henry Longley understood me to mean would you take away the benefit from the privileged place and give it to the other place? I did not mean that; but, supposing the privileged place had more than it required, would you use the powers extending the privilege to neighbouring and more populous places?—That is quite in accordance with the policy of the Acts, due regard being had to the educational interests of the class at present entitled.

1304. I did not suppose a case where you take away an endowment absolutely from one place and put it down in another; only a case where you permit the benefit to overflow into some larger place that has sprung up since the founder's will was made?—I say that that would be within the scope of the general policy of the Acts.

1305. Is it, as a matter of fact, your practice, or do you not rather shrink from doing it?—We are well aware of the opposition which sometimes arises. There was a case which was gone into very exhaustively in the Select Committee of 1886–7 where there was a proposal to make something like a county school out of an endowment which had an originally local character, and it was very strenuously opposed. Of course we guide ourselves by that fact. In a town it is another matter. A parochial charity in London may be extended to adjacent parishes with very much less difficulty.

1306. This, which I am about to put to you, is a case not imaginary, but founded on a real instance. Suppose a not very large foundation, dating from the middle of the 17th century, which has hitherto provided for just the elementary education of the place; supposing that the place gets smaller and smaller, and the income larger and larger; and that there is a populous suburb or neighbouring town which has sprung up in what was merely a village a hundred years ago; and supposing that there is really more than can be spent on the elementary education of the originally designated place; would your policy be rather to extend the benefit of elementary education to the neighbouring place, or to provide a better education for the privileged place?—Our Act gives us the guide in that matter. Our duty is to provide for the advancement of education, and in the preamble there is a reference to placing a liberal education within reach of children of all classes;

Mr. *George Russell*—continued.

classes; and, therefore, in such a case we should incline more in favour of a higher class of education.

Mr. *Wickham.*

1307. Do you find that the regularity of attendance, or the neglect to attend, of special classes of governors is the same in all schools?—I have not sufficiently minute knowledge to answer that question.

1308. May it not be that in one school one class attends better, and in another school another class?—Quite possible.

1309. We were led to understand from the answers we have had that certain classes of governors were rather inattentive to their duties?—The only class that I intended to indicate as usually irregular was a very small class of what I now describe as hereditary governors; persons who are on for some family reason, and perhaps do not reside, or at all events do not care to undertake the duties actively.

1310. Your observations were confined to that?—Yes, to that.

1311. There is no distinction on that point between elective governors and ex-officio governors and nominated governors?—As regards elective and co-optative governors, I said broadly, they are about equally attentive, I think.

1312. And the same with the nominated ones; because occasionally I think the Board or some great functionary has the right to nominate?—For the moment I should include such nominated governors in the term "representative."

1313. It is within my knowledge that there has been the desire in certain schools where there are co-optative governors to put upon the co-optative body some representative in some form or other of the original founder; do you think that objectionable or not?—I should see very little objection to an individual representative of a founder having some preference in being named, in the choice of governors.

1314. I understood that you thought it objectionable, because in an answer you gave to Mr. Strachey you admitted that it was against public policy to have an hereditary governor; would you go so far as that?—The honourable member's question referred to the placing of such a person on as a co-optative governor.

1315. Not on originally?—Yes; and that presupposes that the suitability of the individual is recognised. My objection was to taking a man as it were in the dark.

1316. But do you go so far as to maintain that it is against public policy to have hereditary governors?—There is so little of it in our schemes that I cannot say that it affects public policy largely.

Mr. *Lawson.*

1317. But you stick to your answer that you gave before?—Yes; I adhere to the answer, but I say it is a small matter.

Mr. *Wickham.*

1318. There is another question that I wish to ask on another point; it has been suggested that if there was a Parliamentary head of your body he might be subject to political pressure?—Yes.

Mr. *Wickham*—continued.

1319. Is it not in your opinion a matter of the very first importance that the present heads of your department should be free from political pressure and should be entirely independent?—I am well content with the present constitution, under which we are, I consider, an independent body.

1320. Do you go so far as my question; that it is a matter of the very first importance that you should be independent?—That is a difficult question, for this reason: that I can conceive it very possible that a political chief would give momentum and power, perhaps, to the work of the Commission which there might not be otherwise. That of course is valuable; political momentum may be very important.

1321. In answer to questions 935 and 936 you dealt with the question of the Endowed Schools Commissioners and the Charity Commissioners taking part in each other's work?—Yes.

1322. One of those questions is: "In fact you become Commissioners in a double sense when you come to Board meetings"?—Yes.

1323. But you are appointed in a different way?—Yes, in a different way.

1324. Would it be desirable, in your opinion, that you should all be appointed in the same way, or do you think the present system good?—I have already stated in reply to a question that I think the position of Commissioners holding office as it were from year to year, but carrying on work which has gone on now for nearly a a quarter of a century, and which, so far as I can see, is not likely to come to an end, is anomalous and unsatisfactory.

1325. Would you refer to your answer to question 961 where, speaking with regard to the diminution of endowments of agricultural lands, you say: "Many endowments consisting of agricultural land are now practically not worth more than half what they were 20 years ago." Have you any instances in which they have become almost worthless as to income?—I have in my mind just now a case of a considerable endowment concerning three different districts, where a considerable sum of money was raised some years ago for the improvement of the property or otherwise, and the property is, therefore, mortgaged for that loan, and now by the fall in the rents of the property, the rents only just suffice to pay the mortgage, and the three parishes get practically nothing.

1326. Is there any prospect of any improvement?—That I am afraid is beyond me to say.

1327. What course do you take with regard to the charity?—In that particular case I believe absolutely nothing can be done. The trustees have to pay their debts, and the matter, so far as any charitable work is concerned, is absolutely at a standstill.

1328. Is it a school?—No, it is not a school.

1329. There are no officials to be paid?—I am not at all sure that there are not officials to be paid.

1330. Then such a case has not happened with an endowed school?—I have had several cases of endowed schools where the endowment has fallen so much that they have come to us for relief,

Mr. *Wickham*—continued.

and we have been obliged to recast the scheme on the basis of perhaps half the income it had before; that is frequent.

1331. That is frequent, you say?—Yes, not at all infrequent in the Eastern and Midland counties, especially in Essex and thereabouts.

1332. Does that result in changing the class of school, or rather, perhaps, I should say, the system of education?—In some cases it means that whereas it was contemplated that there should be two schools out of a considerable endowment we have to be content with one only.

1333. Two are put into one?—It may be that one has to be fused or that one which was contemplated has to be abandoned.

1334. Suppose there is only one school, and the headmaster has a particular salary, and there is not enough to pay that salary?—It is possible then that we may have to make a scheme closing the school, and devoting the money in some other way to education.

1335. Now about boarding schools; you were asked a question now about the conscience clause for day boys in boarding schools; is it a matter settled in the scheme whether the headmaster of an endowed school may take boarders or not?—It is usually absolutely defined in the scheme whether there may be boarders or not.

1336. Just two final questions. You wish to correct certain figures in your answers to questions 863, 865, 866, and 872?—Yes. As regards those figures, I gave certain totals which have been made from a Return to the House of Commons, ordered by the House of Commons to be printed 8th of June 1893, showing the aggregate number of governors under certain heads in all the schools comprised in that Return. I omitted to state that in those summary figures one important school was advisedly left out, namely, Christ's Hospital in London. The governing body is set out at length in the Return, and on examination it will be seen that it is a very composite and difficult affair, and it did not lend itself in fact to summarisation with the rest. I ought to have made that reservation, that the summary is minus one important school.

1337. Then the figures are correct as they stand with that exception?—With that exception.

1338. Then I wish to take you to the answer to question 304, in Sir Henry Longley's evidence; perhaps you will kindly read that, and tell us if you concur with him?—Yes, I do generally concur with that.

Sir George Young, Bart., called in; and Examined.

Chairman.

1339. You are an Endowed Schools Commissioner?—I am a Charity Commissioner under the provisions of the Endowed Schools Acts.

1339*. Will you kindly give us your experience in the matter; how long have you been connected with the Commission?—I was appointed in the year 1882, and have since that time departmentally had charge of the administration of the Endowed Schools Acts, including the Welsh Act of 1889, in a district consisting of the six northern counties, four bordering on Wales, Stafford, Worcester, Gloucester, and the Principality of Wales.

1340. With regard to the counties of England, I think we need not trouble you at any length, we went so carefully over the ground with Mr. Richmond; is there anything that you wish to say with respect to your jurisdiction there; your jurisdiction is similar, is it not, to that exercised by Mr. Richmond over the whole of his district?—That is so.

1341. Your functions are precisely the same?—Precisely the same.

1342. And your policy is practically the same?—Yes.

1343. Then passing to the Welsh Intermediate Education Act of 1889, the operation of that lies entirely within your jurisdiction, I think?—That is so.

1344. No one of the other Commissioners, no other member of the Board, has any functions arising out of that until its operations come to the Board meeting?—Yes; departmentally that lies entirely within my district; that is to say, Monmouthshire and the Principality of Wales.

Chairman—continued.

1345. Now, will you kindly state to us briefly what that Act is?—The points in which the Welsh Act differs from the Endowed Schools Acts previously enacted are these: In the first place, and most important, the initiative in the proposing or framing of schemes is transferred by Section 3, coupled with Section 11, from the Charity Commission to a local Committee. By Section 5 the local Committee is constituted of three persons nominated by the County Council and two persons nominated by the Lord President of the Privy Council. To these Committees is given jurisdiction to propose schemes to the Charity Commissioners for the intermediate and technical education of the inhabitants of their county; and they may specify in each scheme educational endowments within the county, which, in their opinion, ought to be used for the purpose of the scheme. The next important point is the funds, which may be dealt with in these schemes.

1346. Would you kindly refer to the section?—I will. Those funds are not limited to the educational endowments spoken of in Section 3, Sub-section 1, but include under Section 3, Sub-section 2, provision for a payment out of the county rate, which is further provided for in Sections 7 and 8. There is also the provision made by her Majesty's Treasury, under Section 9, for an equivalent sum to the rate, which is limited to one halfpenny in the pound. Under the Welsh Act, that concludes this part of the answer; but under the Local Taxation Act (Customs and Excise) of the subsequent year, there was a special provision for Wales that the grants might

Chairman—continued.

might be carried either as in England to purposes under the Technical Instruction Act, or to the purposes of the Intermediate Education Act; and in the great majority of the counties of Wales the whole, and in the remainder one-half of these grants were accordingly added to the funds available under the Welsh Act. The next point of importance in which the Welsh Act differs from the Endowed Schools Acts is as to procedure. The scheme proposed by the Joint Education Committee is submitted to the Commissioners, who have a discretion to agree or disagree with it; and if they agree the scheme is proceeded with as under the Endowed Schools Acts. If any disagreement occurs, the procedure which follows is taken by reference from the Endowed Schools Act, but works in this way: The Commissioners, instead of submitting one scheme to the Education Department, submit two schemes, their own and the final draft approved by the Joint Education Committee. The next point in which the Acts differ is under Section 4, Sub-section 3 (I omit points of comparative unimportance), and that is an addition to the conscience clauses of the Endowed Schools Acts, whereby where the schemes relate to schools which are not excepted by the excepting sections to which Mr. Richmond has alluded for denominational reasons, a further clause is added to the conscience clauses of the Endowed Schools Acts, providing that no religious catechism or formula distinctive of any particular denomination shall be taught to a day scholar.

1347. That is practically the conscience clause of the Education Act of 1870, I think?—That is so. The next point of importance that I would notice is a point of procedure whereby a statutory right is given to the Assistant Commissioners of the Charity Commission to attend meetings of the Joint Education Committee and take part in the proceedings without a right to vote. In this way the Committees were brought into touch with the experience of the Charity Commission at an early stage of the work, and many unnecessary communications, possibly some unnecessary discrepancies, were, I think, happily avoided. The next point I would notice is under Section 11, whereby the powers which otherwise might have been exercised by the Charity Commissioners of making, establishing, or submitting a scheme independently of any scheme submitted by the Joint Education Committee, are suspended except with the consent of the Education Department. Under Section 12, Sub-section 2, a small extension is given to the subject-matter which is within the jurisdiction of the Commissioners under the Endowed Schools Acts. Practically this is a repeal of Section 3 of the Amending Act of 1873, which subtracted from the jurisdiction endowments devoted to elementary education not being grammar schools of less than 100*l.* a year; and under the Welsh Act these are brought again within the jurisdiction. The last point that I will notice in this connection is under Section 13, Sub-section 1, whereby a special exception is made of endowments given either by personal gift or by will subsequently to the passing of the Endowed Schools Act, 1869.

1348. Does that embrace all that you desire to say with respect to the Act itself?—That covers, I think, all the important legislative alterations which were directly made by the Welsh Act in the jurisdiction which we exercise under the Endowed Schools Acts.

1349. Will you now give us a brief epitome, as it were, of the work which has been done under that Act. Of course it is rather recent?—It is rather recent, and is not yet completed There were 16 committees formed, one for each of the counties and county boroughs in Wales and Monmouthshire. After a great deal of conference and communication the committees decided, and decided unanimously, to proceed, as they were entitled to do under the Act, not by way of drafting their own schemes, but by way of making proposals to the Charity Commissioners for schemes, which the Commission then drafted for them. These schemes went to publication after special confidential communication both with the committees and, where endowments were concerned, with the governing bodies of the endowments. After publication they were again considered by the Commission, and finally submitted to the Education Department. Several of them have now become law, and all of them are in an advanced stage. Besides the general schemes made by each committee for intermediate education within its jurisdiction, several subsidiary schemes have been started dealing with particular endowments which, either in order to avoid complication or for other reasons, it was not thought expedient to include in the county or general schemes. These schemes are not as yet in so advanced a state. The county schemes provide for covering the ground in Wales with schools; that is to say, for founding a new secondary school in a great many places where there was none before; and for taking over and subsidising the existing schools which were supported by endowments. In one or two cases, I believe, private schools will, by arrangement, be taken over and made public schools. Between 90 and 100 schools are likely to be founded or established in this manner throughout Wales and Monmouthshire. Large provisions have been made for securing to the poor free access to the schools by means of scholarships on the usual lines in schemes under the Endowed Schools Acts, and also by means of what are called bursaries, that is to say special aid given, not as in the case of scholarships, upon competitive examination, but by way of compensation for special disadvantages, poverty, or distance from the site of the school. Provision has also been made for exhibitions to places of advanced education to children leaving the schools. A very important element in the system is the Central Education Board for Wales, which has been established, or which will be established, I hope very shortly, through the approval by Her Majesty of a scheme which has been submitted. This scheme is a joint scheme of all the 16 counties and county boroughs in Wales and Monmouthshire. It sets up an educational body for the Principality not governing the schools but exercising control in certain definite educational provinces, such as inspection, examination, and some others; and it is to this body that the Treasury has consented to look for the reports upon which they will conclude whether

Chairman—continued.

whether the schools are efficient for the purpose of receiving the Treasury grant; that is to say, the reports of the inspections made under the control of this body, after submission to and approval by the Charity Commission, and, should it be necessary, after such further steps for investigation as the Commission may think proper, will be submitted to the Treasury, and be the foundation of the Treasury grants. Besides the provincial board, which, as I have said, does not govern the schools, but exercises a definite educational control in some respects, the system adopted has been to establish a county governing body, and in the case of each school a local board of managers or governors; and between these two bodies or sets of bodies the government of the schools has been divided.

1350. I think you told us that there are 16 county governing bodies; how many local bodies are there; could you tell us?—The local governing bodies are on an average from three to nine or 10 in the various counties, and they correspond to the schools, which I have said exceed 90 in number. Therefore, taking into account that in some districts where there is a local governing body there is no school, but only a provision for scholarships to be taken to a boarding school, there must be over 100, considerably over 100, of these local governing bodies. In general the main lines of the schemes made under the Endowed Schools Acts have, by the proposal or with the consent of the Joint Education Committees, been followed in these schemes, and where the lines of the schemes formerly made have been followed, the language also has been followed in order to avoid new difficulties of construction. Therefore, with the exception that each of the county schemes is a much more complicated affair than the schemes made separately for schools in England, there is nothing at first sight to distinguish greatly between the work that has been done in Wales and in England; but the amount of money with which they deal, the sources of revenue, the constitution of the governing bodies which have been framed, and in some respects the details of the schemes, will be found to constitute important differences.

1351. Is that the summary that you desire to give us in respect to the work under the Act?—I think that is a tolerably complete outline.

1352. Have you before you a copy of the last Report of the Charity Commission, the 41st?—Yes.

1353. I wish to call your attention to paragraph 36, near the end of the Report; perhaps you will kindly read it?—"In submitting schemes for some counties to the Education Department, we have not found ourselves able to adopt in all particulars the final proposals of the Joint Education Committees; and we have in each such case submitted, together with our scheme, the Scheme of the Joint Education Committee in such form as to show in what particulars the two schemes differed. In the case of Cardiganshire the Scheme of the Joint Education Committee, and not our scheme, was approved by the Committee of Council on Education. With regard to the scheme so approved, an Address was presented to Your Majesty by the House of Lords, praying Your Majesty to withhold your consent from the scholarship clauses of the scheme, for reasons which did not apply to the scheme which we had submitted to the Education Department; and, Your Majesty having been pleased to comply with the terms of that Address, the scheme respecting which the Address was presented has since been approved by Your Majesty without any provisions regulating the scholarships thereunder."

1354. Taking the case of Cardiganshire first, will you explain exactly what took place. I do not quite gather what is the meaning of the words "for reasons which did not apply to the scheme which we had submitted to the Education Department." Had the House of Lords an objection to the scheme as finally sanctioned which did not apply to your scheme?—Yes.

1355. Then the outcome of it was that the House of Lords objected to the scheme approved by the Education Department, but had no objection to the scheme which you sanctioned?—That is so.

1356. The House of Lords preferred the scheme of the Charity Commission to the scheme of the Education Department?—Yes, I think that may be concluded from the Address.

1357. And therefore, through that action in that House, the action of the Education Department was overruled?—So it appears.

1358. The Government of the day was put aside by that action of that particular House to that extent?—Yes; that is what always happens when a scheme is disapproved by either House; because no scheme comes before the House until it has been approved by the Education Department.

1359. In fact, it lies with either House; either House of Parliament has a control to that extent over the Government of the day?—Has a control to that extent over the schemes which have become Government schemes by the approval of the Minister.

1360. Then, passing to the case of Merionethshire, will you kindly go on reading the passage in the 41st Report?—"In the case of the scheme for Merionethshire, an Address was presented to Your Majesty by the House of Lords, praying Your Majesty to withhold consent from certain provisions therein relating to religious instruction in boarding-houses; and the scheme has been approved by Your Majesty without those provisions. We have guided ourselves, in the case of schemes since submitted, in accordance with the policy thus indicated."

1361. Was there any alternative scheme by you in that case?—In the case of Merionethshire there was no alternative scheme.

1362. In the case of Cardiganshire you dissented from the scheme of the Joint Committee?—In one small point we did so.

1363. And the House of Lords dissented from it altogether?—The House of Lords, if I may judge from the terms of the debate and the words of the Address, would have passed the scheme of the Charity Commissioners, which differed upon that one point if it had been submitted; and if their Address went further in respect of the scheme that was submitted to them, that was, I take it, due

Chairman—continued.

due to the difficulty of dealing with the scheme upon Address; because, as you understand, the House presenting an Address to Her Majesty has no power to amend a scheme. Will you allow me to recur to a former answer. I was confused by the somewhat complicated circumstances of the case. There was an alternative scheme submitted in Merionethshire.

1364. But that does not appear in the Report, does it?—The alternative scheme of the Joint Education Committee was not approved by the Education Department, and, therefore, did not appear, of course, before the House of Lords, and is not mentioned in the Report. The scheme of the Commissioners was approved, after some amendments had been made in it, by the Education Department.

1365. In the case of Cardiganshire, then, the Education Department preferred the scheme of the locality. In the case of Merionethshire they accepted the scheme of the Commissioners?—Yes, with an amendment which I believe was understood to be by way of compromise between the two, and which was accepted by the Commission.

1366. In the case of Cardiganshire the House of Lords set aside, if I may use the expression, the locality and the Government. In the case of Merionethshire, they accepted the scheme of the Education Department, with one alteration. Is that a correct way of putting it?—It is correct, so far as Cardiganshire is concerned. In the case of Merionethshire the scheme, as settled, was objected to in the House of Lords, but the objection was not carried so far as in Cardiganshire; therefore, the result was pretty much as you say, that they accepted it with an amendment.

Chairman—continued.

1367. Is that all you wish to say to us with respect to Wales?—I am entirely in the hands of the Committee.

1368. I mean upon my examination of you, you have no further answer to make with reference to Wales?—I have given all the answers to the questions that have been put to me which I desire to give.

1369. Then I pass to quite another subject, the influence of the Local Government Act of 1888, and the Local Taxation Act of 1890 on your administration. May I take it briefly, that they have had the same effect upon the area over which you have jurisdiction as they have had with respect to the area within which Mr. Richmond has jurisdiction?—Certainly.

1370. We have gone fully into that with him, and your policy has been identically the same?—Certainly.

1371. You have endeavoured, and the Commissioners as a Board have endeavoured to arrange the schemes so as to facilitate the earning of the local taxation grant by secondary schools, and they have opened communications all over the country in your area with county councils?—They have done so, though I think "all over the country" is rather a stronger expression than I should like to use. I have not had so much time at my disposal for carrying on my English work since the pressure of the Welsh work commenced, and I have not therefore been so active as I could have wished, or done so much as my colleague has done. With that qualification, our policy has been the same.

Wednesday, 9th May 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Jesse Collings.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Freeman-Mitford.
Mr. Howell.
Mr. H. L. Lawson.
Mr. James William Lowther.
Sir Stafford Northcote.
Mr. Oldroyd.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Wickham.

MR. JOHN EDWARD ELLIS IN THE CHAIR.

Sir GEORGE YOUNG, Bart., recalled; and further Examined.

Chairman.

1372. ON the last occasion we had just entered upon the subject of the influence of the Local Government Act of 1888 and the Local Taxation Act of 1890 on your administration; and I understand from you that the Commissioners, as a Board, have endeavoured to arrange their schemes so as to facilitate the earning of the local taxation grant by secondary schools, and have opened communications with county council committees on the subject. Can you amplify your answer on that point, and give us some illustrations?—You will probably have heard from Mr. Richmond——

1373. Within your own area of jurisdiction, of course, I mean?—You will probably have heard from him of the omnibus schemes which we are promoting for introducing by a single scheme representatives of the county councils upon the governing bodies of various institutions. By the Technical Instruction Act, governors were introduced into the governing bodies of schools aided by grants for the purposes of that Act only. In schemes made since the Act it has been our practice to provide that such governors should be governors for all purposes, and, where possible, we have introduced that amendment into the schemes already passed into law. The facilitation of the earning of local taxation grants by secondary schools has for the most part, of course, to be carried out by correspondence in the particular cases with the county councils, so as to ascertain that the schools are meeting their views in the matter. As important instances of the work in my jurisdiction, I should like to mention the correspondence that is going on with a view to a scheme with the county council of Shropshire for the arrangement of a scheme for the Adams' Charity, a large gift recently bequeathed, in the shape of an agricultural school or college for the district; and, further, for the appropriation of a sum of 20,000*l.* from the accumulations of the funds of the hospital at Preston-on-the-Wild-Moors to the purposes of a technical school for girls. Of the omnibus schemes I have now in progress

Chairman—continued.

one for Northumberland, and I am commencing schemes for Cheshire, Staffordshire, and, I hope, Worcestershire. Another instance I may mention is the county fund which we are endeavouring to carve out of the over-great Jarvis Charity at Staunton-on-Wye, in Herefordshire, with a view of dealing with it in correspondence with the county council for Herefordshire upon the lines, generally speaking, of the Welsh Act, which, of course, does not apply to Herefordshire; that is to say, we have set apart a fund which, I believe, will be about 15,000*l.*, for county purposes from the accumulations of this charity, and before proceeding to a scheme we are corresponding with the county council with a view to meet their proposals and to assist the work which they are carrying on independently.

1374. Have you anything in Yorkshire?—Nothing more in Yorkshire than the correspondence in two or three cases for the purposes of small alterations and schemes to meet the views of county councils, and taking into account, in some schemes that are now going on, the subsidies which are expected from the county council, which justify us in making a scheme for a school where otherwise we should have probably converted the endowment, temporarily at all events, into an exhibition fund.

1375. Have you anything more to say with respect to the influence of the Act of 1890 in your district?—I think that is a sufficient illustration.

1376. Then I now pass, if you please, to questions as to your actual work, taking it under the two heads of individual discretion and consultative board action; can you give me now some illustrations of cases in which you consider yourself entitled to decide and act individually without any reference to any other Commissioner?—The cases in which a Commissioner working under the Endowed Schools Acts decides and acts without reference to other Commissioners are of course those in which he is distinctly acting within a rule or following a well-established

Chairman—continued.

lished precedent. The whole of the work of making schemes, generally speaking, is guided by the form which we call the Heads of Scheme, which passes the Board in the first instance, and which is unalterable by a separate Commissioner except by a Board Minute. At the same time, in the course of negotiation, a Commissioner may often see his way to good work by announcing in correspondence or conversation that such-and-such concessions are within the lines which the Board have sanctioned in other cases; which is practically, of course, a pledge that the concession, if desired, can be made in this case. It will be seen, therefore, that it is not easy to draw a line between the subjects which a Commissioner may decide for himself and the subjects which he must bring to the Board. Perhaps the best way to give an idea of the distinction of responsibility is for me to mention some of the rules, and understandings which have the force of rules, by which the individual Commissioner is guided.

1377. If you please?—I have already mentioned the Heads of Scheme. Then further, after a draft scheme has been published, the objections and suggestions which are made during publication are in all cases considered by the Board, and no scheme is submitted to the Education Department, this being the concluding act of our jurisdiction, without an order of the Board, the Chief Commissioner being present. These two last instances, I may say, are statutory. It is indicated in the Act that the consideration of the objections and suggestions on publication, and the submission, shall be by the Commissioners; that is to say, by the Commissioners as a whole.

1378. I think, before we get to that, I should like to ask you a question on the point of individual discretion; you are now rather passing to Board action. Supposing any suggestion is made to you from a locality that it is desirable that a scheme should be made or altered in respect to any particular endowed school, after you have received that letter what do you do?—I decide upon my own responsibility whether it is a suitable case to take up or not; the universal course, I may say, being to take it up for the purposes of inquiry if there appears to be a substantial wish that something should be done in the locality.

1379. The judgment as to the substantial wish is a matter entirely within your individual discretion?—In the first place.

1380. I am speaking now of what happens in the first place. Let us go by steps, if you please. Then supposing you decide that there is no substantial wish in the locality, or that the circumstances do not demand any action, the thing is put aside, is it?—An answer would be sent, and if that appeared satisfactory to the locality it would be put aside.

1381. That answer would be from you individually?—Yes.

1382. Supposing that is not satisfactory to the locality, what then?—If a renewed application for interference was received, and I still did not think that it was a case for interference, I should bring it to the Board, not under any rule, but under the general understanding that all matters of importance (and a renewed refusal of interference is undoubtedly a matter of importance) should be decided after consultation with my colleagues.

Chairman—continued.

1383. Then, supposing, on the other hand, you decide that it is a matter which should go forward, you put it forward individually up to a certain point?—Yes. I then assign it to one of my assistant commissioners and in general direct him to visit the locality and investigate the whole matter and present a report to me.

1384. Is there any point during that action of the assistant commissioner, or of the investigation, at which you would feel yourself justified in arresting it before it goes to the Board, to your colleagues?—I can hardly remember the case arising. Yes, it would certainly be within my discretion to lay a case aside.

1385. To defer it, I presume?—It would be rather to defer it than to abandon it.

1386. Have you had, since there has been a Parliamentary Commissioner, any instance in which you, or, so far as you know, any of your colleagues, have arrested the progress of a scheme, and appeal has been made to the Parliamentary Commissioner by those interested?—I cannot say for certain. I could mention as to any particular case put to me, I dare say.

1387. Now, will you go on, please, from the point at which I interrupted you with respect to the rules?—I was saying that the distinction appeared to me to be more easily described by particularising the parts of the work that are cut out by our rules and reserved for the Board. Such are questions of due regard under Section 11 of the Endowed Schools Act, 1869. That is a statutory provision pretty well known, under which, in dealing with a fund of an endowment, we are to have due regard to the educational interests of any class which is in the enjoyment of benefit from the fund.

1388. Is that a rule, do you say?—I say it is a rule that how much shall be assigned, or in what manner funds shall be assigned, by way of due regard, shall be settled by the Board. The reason, of course, is that this is a statutory duty incumbent upon us, but left to our discretion as to the quantity and manner of its carrying out. Another similar question is where we have to make provision for vested interests under Section 13; and all questions of deciding whether consent under Section 19 and the amending sections is required, in the same manner are to be brought to the Board.

1389. Have you a form which embodies any of these rules?—I believe there is a paper in the office, though I do not happen to have seen it. I merely collected these instances from the authorities in the office, but I believe there is a Minute of the Board directing each of these points that I am now giving you to be brought to the Board.

1390. You have not got it with you?—It will be in the Minute Book, I think.

1391. Have you finished with the rules?—I have given all the rules I am aware of that have been passed as minutes.

1392. Now will you turn to the understandings?—One of the understandings that have the force of rules among ourselves is that all new educational provisions and proposals, all ques-

Chairman—continued.

tions involving a new point of construction in the Acts or in the language of particular trusts, shall be brought to the Board; and it is of course our duty to call attention to any special points in passing the heads of scheme. Then again, as I have already hinted in answering another question, even where questions of policy are well settled, and where no doubtful question of construction or of law arises, if opposition is likely to be grave, that is to say, if the view taken by the individual Commissioner appears to be in opposition to that which is held by any large number or important body, we feel that no steps should be taken to commit the Board without consulting it. And, similarly, even where no opposition threatens, the same understanding may be said to hold where the subject is of unusual interest or the interest very widespread.

1393. You would adopt probably the expression that was used by the Chief Commissioner, that you work on the principle of mutual confidence?—Yes, with the limitations that I have mentioned, which (I call attention to this) are somewhat more strict, somewhat more in detail, on the endowed schools side of the office than they are upon the charitable trusts side. There is nothing, for instance, corresponding to the Heads of Scheme in the ordinary administrative action of the charitable trusts side of the office.

1394. How does it arise, in your opinion, that Commissioners acting under the Endowed Schools Acts have a certain limit of liberty beyond that exerciseable under the Charitable Trusts Acts?—The liberty which we have beyond that exercised under the Charitable Trusts Acts is to take up, proceed with, or drop schemes; and as compared with that exercised on the permanent side, is due to the fact that we are by the statute entrusted with an initiative which, of course, involves the further discretion, if our time can be better disposed of, or if the circumstances appear unfavourable at the time to proceeding with the scheme, that we may postpone or drop it; whereas, on the permanent side of the office, the matter is one of administration, and it goes forward, as a matter of course, when once taken up.

1395. By the Endowed Schools Act, 1869, you are, of course, a Charity Commissioner?—I am.

1396. And at the Board meetings you deal not only with matters arising under the Endowed Schools Acts, but you deal with those arising under the Charitable Trusts Acts?—Precisely.

1397. But before you get to board meetings, I gather that your whole time is occupied under the Endowed Schools Acts?—Yes.

1398. Your functions become duplicated, to a certain extent, at the Board meetings?—At the Board I have the function of giving a voice in regard to matters of which I am not departmentally in charge.

1399. Have you been departmentally informed of them before you get to the Board meeting otherwise than by the agenda for the Board meeting?—In particular cases of importance I may be, but not as a rule.

1400. I mean not as a rule?—No; that is to say, the cases that are brought to the Board and explained there by the Commissioner in charge are for the most part new to me.

Chairman—continued.

1401. I presume your whole time is occupied with the functions of an Endowed Schools Commissioner outside the Board meetings?—Yes, my whole time. I say that with deliberation; and I ought to add something to the answer: There are functions which fall within my duties as a Commissioner appointed under the Endowed Schools Acts, but which are new, and arise out of proceedings of ours which were not contemplated by those Acts; I refer to the examination which it it is my duty to make of the reports upon inspection of schools of the Assistant Commissioners. The inspections are part of the permanent work of the office, and are, strictly speaking, work that should be done by the permanent staff; but it is my duty to read the Reports, because without doing so I am not in the possession of knowledge which it is desirable I should have as to the desirability which sometimes exists of amending a scheme which has passed into law.

1402. Are you referring now to matters outside the Endowed Schools Acts?—The inspections are outside the Endowed Schools Acts; but the amending of schemes is not outside the Endowed Schools Acts; therefore we have been obliged to arrange matters as between the two Departments so as to fulfil our duties to the best advantage, and in this respect to take a liberal view of the limits of the work, which otherwise would be divided inconveniently between the two sides.

1403. Do these matters to which you have alluded in your last two answers apply to your colleague, Mr. Richmond, as well as to yourself?—Yes.

1404. How is it that those added functions have grown up?—We conceived, in consequence of what came to our knowledge from questions and remarks in Parliament, as well as otherwise, that it was incumbent upon us to take special steps some years ago in order to ascertain whether the schemes which we made were being carried out; and for that purpose we sent our Assistant Commissioners periodically into particular counties to visit the schools and make certain inquiries. The results of these inquiries entail upon us the duty in many cases of making amending schemes. Where the matter at issue is unimportant these schemes can be made under the Charitable Trusts Acts, but where educational questions are largely involved it is more convenient and more consistent with the spirit of the legislation that we administer that the amending scheme should be made under the Endowed Schools Acts.

1405. You say that that has arisen largely in consequence of remarks in Parliament; do you wish the Committee to infer that the information has come up from localities to their representatives here that certain new works which ought to be done were arising, and that therefore the Commissioners were pressed to turn their attention to it?—It came about in this way: in discussing the benefits of particular schemes it was said, not only in Parliament (but the remark certainly

was

Chairman—continued.

was made there sometimes, and I think with justice), "How can we be sure that these schemes are carried out as made? The Commissioners present no report upon the subject." Therefore we thought it was advisable that we should be in a position to say how far our schemes were being carried out; the power, you will understand, of obtaining any such information being at our disposal under the Charitable Trusts Acts, as incorporated for this purpose in the Endowed Schools Act.

1406. You mean that a general desire grew up that the Commissioners should not only set schemes on foot, but should continue to inform Parliament as to how those schemes were being worked?—I would put it as far as this: there was a general desire that it should be ascertained how far the schemes were working; but I do not think I should put it so far as that a general desire was expressed that we should do it; that seemed rather to follow from the circumstances of the case.

1407. Is that all you desire to say on your own work individually and as a member of the Board?—I think it contains a tolerable illustration, and gives a correct general view of the distinction between the jurisdiction exercised by a single Commissioner and that for which he resorts to the Board. But I should like to add in this connection a quotation from the fifth section of the Endowed Schools Act of 1874, whereby, after arranging the rule as to submission, which I have already given, the section proceeds that "in all other respects one Charity Commissioner may act under the Endowed Schools Acts as amended by this Act." That, of course, gives a certain authorisation to the arrangements which I have described.

1408. Now I pass, if you please, to the terms of reference to this Committee; and with respect to our appointment, "to inquire whether it is desirable to take measures to bring the action of the Charity Commission more directly under the control of Parliament," may I ask if you have read the evidence or heard the evidence of the Chief Commissioner and your colleague, Mr. Richmond?—I have not had any opportunity of seeing Mr. Richmond's evidence. I have been able to turn over the Chief Commissioner's evidence, but not so carefully as I propose to read it.

1409. Are we to take it that you are in general concurrence with it, or have you anything that you desire to say?—I am hardly in a position to give a general answer upon the evidence, even of the Chief Commissioner, to that effect, though I believe, knowing his opinions upon the main question, that I should be able to concur substantially in what he has said.

1410. Then I will ask you, on your own initiative, have you anything to say, without reference to anything that has been given before the Committee?—In regard to the general question whether the work of the Charity Commission should be brought more directly under the control of Parliament, do you mean?

1411. Yes?—I would say that I agree with those who have on former occasions argued that the special work done on the permanent side of the office appears to be more appropriately done by a Commission, independently of direct Parliamentary control.

1412. By "the permanent side" you mean the charitable trusts side?—Yes.

1413. Do you consider, with respect to the charitable trusts side, that the present position of things affords you sufficient Parliamentary momentum?—Speaking as an observer of the work I should say that it does.

1414. You use the word "observer;" you do not mean to dissociate yourself from the responsibility which attaches to you as a Charity Commissioner at the Board meeting?—Certainly not with regard to decisions which have been taken by the Board, nor from the generally understood responsibility for what does not come to the Board. I was giving an opinion with reference to the opportunities I have had of judging. You can understand that I have not been myself engaged in the work, and that, in expressing an opinion as to a point of legislation, I speak as an observer.

1415. Do you agree with the Chief Commissioner that all other public Departments have to derive the momentum which carries their policy through Parliament from the political party which happens to be in power?—Yes, in so far as that policy can be said to require support of the kind indicated; but it appears to me that the greater portion of the work on the charitable trusts side of the office proceeds within limits which are tolerably well laid down, and is administrative, rather than work which can be described as "a policy."

1416. Not only administrative, but *quasi*-judicial?—There is also, of course, a good deal of *quasi*-judicial work; that is clearly not work that requires Parliamentary momentum; the idea is inapplicable to it.

1417. Do you concur with the Chief Commissioner that the other public Departments have another momentum, a momentum which helps them to get what they want from the Treasury, and that you are without it?—I am aware that there has been considerable difficulty of late years in obtaining certain concessions from the Treasury in regard to staff and salaries and organisation; but I think that is a temporary matter. Until a few years ago, I believe, this particular difficulty either never arose, or did not greatly affect the efficiency of the office. There has been some additional difficulty in that respect of late. I am not able to say, with regard to the question put to me, whether a closer relation with Parliament would have enabled the particular difficulties in question to be more easily settled at the Treasury.

1418. Do you concur with the Chief Commissioner when he says, "We have not got the help of a political chief or representative, either to defend our policy or to help us in getting the means to do our work"?—That is so, no doubt.

1419. Do you think the fact of having a Parliamentary Commissioner, the Fourth Commissioner, as he is termed, unconnected, as has generally been the case, with the Government of the day, is an improvement on the old state of things?—Yes; I very strongly advocated the re-

Chairman—continued.

vival of the Parliamentary Commissioner at the time when it had fallen into disuse, and I think it has been of great benefit.

1420. Why?—Because we have a voice in, and are brought in touch with, the House of Commons through the Parliamentary Commissioner.

1421. What is the particular advantage of being in touch with the House of Commons?—Because questions are constantly arising there which require explanation that the Parliamentary Commissioner can give; and I understand that the amount of service that has been done to the Commission in that respect is by no means to be measured by the questions which appear in the roceedings.

1422. Then I gather from you that it is clearly an advantage, in your opinion, that the House of Commons should be fully informed of the work of the Commission?—In all respects in which any desire is felt for information.

1423. Is it an advantage that that information should be conveyed to the House of Commons with a view of the House of Commons criticising and controlling the Commission?—The particular way in which the information of which I am speaking is conveyed does not, of course, facilitate a direct interference with the policy of the charitable trusts side of the office; but there is, of course, the second advantage, that besides the House of Commons knowing more accurately what we are doing, we come to know more accurately what the House of Commons is thinking, and can guide ourselves accordingly.

1424. And do you think it is a right thing that the Commission should be guided by what the House of Commons thinks?—Yes; there are many points in which it is very useful that we should know that.

Mr. *J. W. Lowther.*

1425. Does this refer to the endowed schools side or to the charitable trusts side, or both?—I am now speaking, I think, specially with regard to the charitable trusts side.

Chairman.

1426. We are now upon the point of the charitable trusts side entirely, if you please?—I understood it so.

1427. Could you give us an illustration of two or three of those points as bearing on your work?—I think that, in the increased presence of the representative element among trustees of charities, we have been assisted by the knowledge that the House of Commons was in favour of such increase. I think it has been an assistance now of many years' standing to the Commissioners, that the House of Commons was known to be adverse to the continuance of doles. I think the general line taken by the House of Commons in reference to allotments has been of assistance to us.

1428. Those are a few points, and they are illustrative, possibly, of some others?—Yes; those are three which have occupied a good deal of my attention since I have had the honour of a seat at the Board.

1429. Then may I take it from you that you individually, and so far as you are aware your colleagues too, consider it to be a great advantage, on the one hand, that the House of Commons

Chairman—continued.

should know the work of the Commission fully, and, on the other, that you should know the wishes of the House of Commons?—I have not accepted the phrase that the House of Commons should know the work of the Commission fully, and for this reason: that it is impossible; it is beyond the power of Members of the House of Commons, occupied as they are, to have a full knowledge of the work of the Commission.

1430. Perhaps you will use a phrase of your own?—The phrase that I used was, that they should be fully informed upon any matter on which there was a desire for information; and that we should be acquainted with the mind, not merely of the House of Commons as a whole, that is to say, of the majority upon any point on which a majority is declared, but also of individuals in the House of Commons, I do hold to be important.

1431. Then I gather that you draw a considerable distinction in your mind upon the matter of Parliamentary control, as to what exists or ought to exist with respect to the charitable trusts side and the endowed schools side?—There must be a considerable difference drawn, because the function of the House of Commons in regard to the endowed schools work is so very much more important and direct. Everything that is done on the endowed schools side can be in the last resort rejected by a Vote of either House of Parliament. Therefore there is a distinction to be drawn.

1432. Do you consider that Parliamentary control over the schemes under the Endowed Schools Acts is practically complete on the negative side?—On the negative side, that is to say, in order to prevent a scheme from passing of which the majority disapprove, it is undoubtedly complete; and in regard to amendment it is practically sufficient; in the first place, because the Vice President of the Education Department has now the power of suggesting to us amendments of schemes which have been submitted, and is on his part responsible to Parliament; and, in the next place, because either House of Parliament has the power of rejecting a portion of a scheme and thereby leaving room for amendment if desired. This last, however, is rather a clumsy way of amending a scheme.

1433. You have given us some illustrations in your examination the other day with respect to what was done under the Welsh schemes by the House of Lords; can you give us any other illustrations of recent dates outside Wales in the area under your jurisdiction in respect of any other schemes?—Instances of amendment I can give. Instances of rejection are, happily, rare; but there was a small case last year of a school at Barkisland, near Halifax, which was rejected by the House of Lords.

1434. Those are all illustrations from the House of Lords; have you any illustrations from the House of Commons?—The House of Commons has not rejected any scheme on the endowed schools side since I joined the Commission; and I think, with an explanation in the case of the scheme in the Dauntsey Charity, that may be taken as without exception. Practically, as is well known, the scheme for the Dauntsey Charity was withdrawn in consequence of what passed in the House of Commons.

1435. That

Chairman—continued.

1435. That is the only instance you can give us?—That is the only instance that I can give.

1436. Then, now passing to the second part of the terms of reference: whether it is desirable to give the Charity Commission "more effectual means of dealing with the business which will come before it"; have you anything to say under that head?—I do not think I can very usefully say anything on that head in regard to the charitable trusts side of the office; and in regard to the endowed schools side, as the Committee are aware, there is now a Royal Commission sitting to consider the general question of and organisation of secondary instruction throughout England. My answer I should prefer, therefore, to put in the general form that I think progress in the direction of the Welsh Act would be an advantage in England also.

1437. Your experience of the Welsh Act makes you desirous of seeing the same sort of thing extended to this country?—Yes.

1438. And so far as your experience goes as an Endowed Schools Commissioner, would you say that your staff is sufficient?—That requires an answer with qualifications. The work that we do might be carried on on a scale to occupy a very much larger staff; because since we have the initiative in taking up cases, and since there are a great many cases for which no scheme has been made, there is practically no limit to the work as it stands, and it may be carried on rather slower without producing a scandal, and very much faster without leaving any portion of a larger staff unemployed. If it is desired that the work of making an initial scheme for the remaining endowments should be finished up within two or three years, our staff ought to be increased. If, on the other hand, it is thought well to proceed as at present, we can cope with the work which there is an immediate pressure upon us to do.

1439. Do I gather that you think the work under the Endowed Schools Acts could with public advantage be amplified and accelerated?—It would be for the public advantage that it should be done now upon a different principle; on the principle which was followed in Wales; but that would introduce so many considerations of change that I can hardly treat of it as under the heading of an improvement of our existing staff.

1440. May we take it from you that you would like to see the present process of passing an Act annually to give you the powers and functions of the endowed schools side of the Charity Commission terminated, and a more permanent status given to it?—I certainly did not expect when I accepted the office that I should have been for 12 years in the position of a yearly tenant; and I do not think it a position which is favourable to the best work being done.

1441. Is there anything you wish to add on your examination-in-chief?—No, I think there is nothing I wish to say of myself. It will be understood that in giving evidence before the Royal Commission I have dealt fully with the subject of the new work which must now be contemplated.

Mr. *Donald Crawford.*

1442. You spoke of the inspections now undertaken as a comparatively new duty being thrown upon the Commissioners, or taken up by them; is that so?—It is comparatively new; it has been in progress, I think, for six or seven years.

1443. Does that inspection extend to the schemes under the Endowed Schools Acts as well as the Charitable Trusts Acts?—It is only inspection of the schemes under the Endowed Schools Acts that I am speaking of. The inspection of charities under the Charitable Trusts Acts is as old as those Acts; and there were for a long time two officers with a Parliamentary position, called Inspectors of Charities, who used to conduct those inspections; but the new inspections are the systematic inspections of schools in particular counties undertaken for the purposes of the Endowed Schools Acts.

1444. I see the reason; but why is it, as I understood you to say, that that inspection was primarily rather the duty of the Charitable Trusts Commissioners than of your side?—Because after a scheme is made I am *functus officio* with regard to that particular case. An inspection, like any other work of a permanent sort, naturally falls to the permanent side to do; but owing to the fact that our Assistant Commissioners are gentlemen well-skilled in educational matters, these inspections are conducted by our Assistant Commissioners, and owing to the fact that if an amending scheme is made it must be made for the most part upon educational considerations, among ourselves we have arranged that the first reading of and responsibility for examining these reports of inspection should be undertaken by the Commissioners on the endowed schools side.

1445. But does not that fall naturally enough under one of your duties as Charity Commissioner generally, just in the same way as your duties at the Board; because these are your own schemes?—The question raises the point how far a temporary Commissioner appointed under the Endowed Schools Acts is at liberty to spend his time in work that does not contribute to the termination of his appointment. I have always considered that my business was to get through the temporary work, and that nothing that was not legitimately connected with that could properly be placed upon me to do.

1446. But to a certain extent you do take part in other duties when you attend the meetings of the Board; you take part in the deliberations of the Board with reference to the charitable trusts side of the work, do you not?—Yes; being constituted by statute a Charity Commissioner, it is my duty to do that; and what it is my statutory duty to do raises no question.

1447. The view might be taken that it was equally a part of your duty to take some share in reading the reports of the inspectors?—We have been able to take the view that it was within our duty, but we are aware that some jealousy has been expressed at the Treasury of the temporary Commissioners taking even so much share as they do of this permanent work, on the ground, of course, that it tends to protract their appointment.

Mr. *Donald Crawford*—continued.

1448. Just to follow out that part of it for a moment, about the temporary character of your appointment. You have told us that if it were thought desirable to proceed much more rapidly with the works under the Endowed Schools Acts, a very large addition to the staff could be employed in that way. Now, would that include an additional Commissioner, or could it be done by additional subordinates?—I do not think it could be done by additional subordinates only. I think that if, for instance, it was desired now to finish the proceedings under the Endowed Schools Acts, by making a scheme within the next two years for all the endowments for which it was desirable to make a scheme, and for which no scheme has been yet made, it would be necessary both to appoint several new Assistant Commissioners, and also to some extent to strengthen the staff of Commissioners.

1449. That naturally raises the question of cost, and, accordingly, if an increase of the subordinate staff would bring the work to a conclusion in a much shorter time, obviously it might be an economy to take that course; but if it involved the appointment of a commissioner there might be no economy in hurrying it on, is not that so?—I can hardly say whether the incurring of greater expense within two years or the proceeding at the present rate would result in greater economy, one way or the other.

1450. Can you give the Committee an idea how long your work is likely to last at the present rate?—When I gave evidence before the Committee of 1886, I said I thought we could give a good account of the work, if no additions were made to it, within 10 years, and I gave some figures for that calculation. Since then the passing of the Welsh Act has caused a considerable delay in my English work, and has added on the side of Wales work which was not in contemplation, and the inspections have disclosed the necessity for a great deal more in the way of amending schemes than at that time I could anticipate. Therefore I think I am justified in saying that a longer period at the present rate would be necessary, but I should find a difficulty, without spending a good deal of time in making an analysis of my journal-book and of the cases which remain without schemes, in giving an estimate of the time.

1451. Eight years of that 10 years has expired; would you say, roughly, that it would last five years longer?—I think I should prefer not to hazard an estimate. It is the less necessary, because I cannot but think that the result of this Royal Commission must be very much to alter the conditions under which the work is being done, and no doubt in one respect very largely to add to the work.

1452. Are the Endowed Schools Commissioners proper in the position of being in the Civil Service, but without a pension or superannuation?—I believe they are not; they are in the position of temporary Royal Commissioners, except that they have a statutory power of acting on equal terms with the Charity Commissioners, who are permanent Commissioners.

1453. I want to ask you one question on another point that the Chairman asked you about. In an answer to the Chairman you distinguished between the quasi-judicial and the

Mr. *Donald Crawford*—continued.

administrative duties of the charitable trusts side of the Commission. The *quasi*-judicial part of the work on the charitable trusts side is subject to the control of the Court of Chancery by way of appeal, is it not?—Not in general.

1454. There is an appeal to the Court of Chancery from any scheme made, and on one or two other points?—Yes, that is so from schemes, and on one or two other points; but the decisions of the Commission as between trustees and officers of a charity, for instance, are not in general subject to appeal to the Court of Chancery.

1455. So that even in part of their judicial functions you consider that they are not subject either to the control of a court of justice or to Parliamentary control?—Certainly; they are the final appeal; just as (if I may draw an illustration from another work in which I was at one time engaged) certain committees are appointed for arbitration in friendly societies, from which there is no appeal to Her Majesty's courts of justice.

1456. So that so far as their judicial duties go, and so far as those are not subject to appeal, you say that your opinion is that there s nothing unusual in that; that they are simply to that extent a final court of justice?—There are other instances of it in our jurisprudence.

1457. No doubt there are; but then take the administrative work which you distinguish; does any other example occur to you of a public body paid with public funds and entrusted with administrative duties, which is not subject to Parliamentary control?—Yes, there are certainly a great many which are not subject to direct Parliamentary control; all the local bodies in the country, for instance.

1458. What kind of local bodies are you referring to?—Town councils and school boards.

1459. They are not paid by the public money; that was part of the conditions I put to you?—I beg your pardon. The Civil Service Commission, I think, is an instance.

1460. It is not subject to direct Parliamentary control; it may be so?—The direct Parliamentary control of which you are now speaking, as I take it, is that there is no Minister responsible for, or who can be questioned upon, their acts.

1461. I suppose the Ecclesiastical Commissioners would not be an instance, because they have funds of their own?—They would fall without the terms of the question which you put.

1462. On the other hand, such Commissioners as the Woods and Forests are subject to Parliamentary control?—I am not acquainted with the regulations under which they act.

1463. Can you suggest any other instance except the Civil Service Commissioners?—Yes, with a little thought, I could.

1464. I am merely asking for information, because we have been trying to get examples?—I will undertake to look it up in my books and see if I can find any; but I am now, of course, speaking outside the limits of my official knowledge.

1465. I have one more question to ask, and that is this: in your examination on Friday, at

Question

Mr. *Donald Crawford*—continued.

Question 1360, you refer to a case in which the House of Lords rejected a scheme; and in quoting from the Forty-first Report you say, "We have guided ourselves, in the case of schemes since submitted, in accordance with the policy thus indicated." I suppose it might quite well happen that the policy of the House of Lords was the reverse of the policy of the House of Commons upon the subject?—I suppose so.

1466. Have you found any embarrassment from that cause?—No; the two Houses have never come to opposite resolutions upon any scheme.

Chairman.

1467. You told us, I think, that the House of Commons had not rejected any scheme, with the exception of the Dauntsey Charity?—The House of Commons did not reject the Dauntsey Charity; but I gave that as an instance, in order to make my answer complete, by adding an instance of what was done in consequence of what passed in the House of Commons. Schemes have been rejected by the House of Commons in former times, but not within my recollection or experience.

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1468. But when you say that the two Houses have not come to contradictory resolutions, that could only happen in express terms if a motion were made in both Houses; but, so far as that goes, the presumption is that the House of Commons is in favour of any particular scheme if it does not reject it?—Up to the time when something new happens. If no motion is made, the presumption is that the House of Commons was in favour of a scheme which has been allowed to pass, even though it may have been altered by an Address from the House of Lords.

1469. Still, even though the presumption and belief may be that the House of Commons is in favour of the scheme, if it is rejected by the House of Lords, the Charity Commissioners think it necessary to take that as a rule of guidance?—We have nothing to do with belief. As I understand, you are speaking of presumptions of which we are bound to take account. We certainly consider ourselves bound to guide our conduct by what passes in either House; and, as I have said, we have never been face to face with the difficulty of two debates upon the same point in a scheme, and the two Houses taking different views. But, in regard to questions of belief as to what may be the general opinion of the House of Commons, and the question whether it may, by those who watch political matters, be held to be the opposite of what is expressed in the House of Lords, I conceive that that is beyond our official duty.

1470. I have apparently not made my point quite clear, and I do not at all wish to press it too far; but you lay your scheme on the Table of both Houses?—No; the scheme is laid by the Education Department if objected to outside.

1471. I am assuming that a scheme is objected to outside; it is then laid by the Education Department on the Table of both Houses; the House of Commons, by not saying anything against it when it is on its Table, practically says that it approves of it?—Up to the time when it is

Mr. *Donald Crawford*—continued.

altered; and, if after it is altered (to take the instance that you have given) by the House of Lords, still the House of Commons says nothing, we may presume that no such objection to the scheme as altered is entertained in the Commons as we are called on to take notice of.

1472. But is not the course of procedure very much this (as far as my experience goes it is so): an objection is taken on the last day that it can be, when it is laid before Parliament; if that is done, and the House of Lords reject the scheme, the House of Commons allows it to pass; the House of Commons has no remedy; it has no further means of expressing an opinion?—If that were to occur there would be no further opportunity; but I suppose those who are interested in the progress of matters in both Houses would be able to deal with the circumstances if they arose. I do not think they ever have arisen.

1473. What has been the course when the House of Lords has rejected a scheme?—The scheme has been established, only with the omission of such parts as they objected to; or, if they present an Address against the whole scheme, the scheme has been dropped.

1474. What remedy would the House of Commons have in that case?—You mean, how should the House of Commons proceed to get a scheme established in spite of the House of Lords; I cannot say.

1475. No, I mean this: if the House of Commons allows a scheme to lie on its Table without objection, may it not be said that it approves of it?—Up to the time, as I say, when the scheme is altered.

1476. Take the case of rejection, not alteration?—Then of course I cannot say; but it must depend entirely upon the circumstances what opinion I should form. But I think perhaps we are somewhat at cross purposes. As I understand, the principle of the statute which is given to us to administer is, that since it is impossible for all these schemes to be carried through both Houses as Acts of Parliament, the legislative power shall be delegated to a body like the Charity Commission, subject to objection from either House. Therefore, when you ask me what remedy the House of Commons has, supposing a scheme which they otherwise would have approved of, is altered by the omission of a part of its provisions, or wholly rejected by the other House, the question appears to be outside the intention of the particular form of legislation which we are dealing with. There is no remedy, and there was not intended to be any remedy.

1477. I accepted the word "remedy" from you; I think you used it first. I mean this: you say at this Question 1360 that you accept the decision of the House of Lords as a guide to you in future schemes. I say, may not the proceedings have been such that not by a conjecture, but by a proper inference, you may have reason to believe that the House of Commons is in favour of the scheme, and takes a different view from the House of Lords?—There would be no embarrassment to us, because the House of Commons might object to the next scheme that went up, and thereby inform us what the intention was on that side.

 1478. I understand

Mr. *Oldroyd.*

1478. I understand from you that for five or six years now the system of inspecting schools working under the new schemes has been carried out?—Yes.

1479. And your experience is that the new schemes require emendation?—We have found some particular points in which a good many have required emendation.

1480. Could you give us a general idea as to what the points are?—I will give you some instances. That which most frequently has been brought to my notice is where a scheme has been made in the early days of the jurisdiction for an endowment which it was desired should not entirely go for purposes of elementary education, and where at the same time it was impossible to found a secondary school. There a device frequently resorted to was to endow the elementary school and to provide for an upper department giving secondary instruction. We have found (I am not sure that we entirely know even now from what causes) that plan, which was highly thought of 20 years back, to have been a failure; those higher departments have either not been tried, or if tried have failed; and we therefore now amend these schemes in such cases, and set aside a portion of the funds rather by way of exhibitions to take children from the elementary school to a technical or secondary school. Other cases have been where schools have failed to attract, from various reasons, such as the too great continuance of the old classical tradition, which it may have been desired by the scheme to diminish, but which has not been effectually diminished. Others, again, have been cases of failure through the scheme being overloaded with work, and through subsequent financial collapse, arising often from the diminution of rents; and here in many cases we have had to step in and alter the scheme by removing clauses which provided, for instance, that something should be done for the education of girls, no money being in existence to pay for it. But, in regard to these cases of financial collapse, I may say that they generally come to us sooner or later, independent of inspection.

1481. Does not the fact that these schemes require emendation point rather to the continuance of your branch of the Commission?—I think so; either in its present form or under such altered form as may result from the Report of the Royal Commission which is now sitting upon this subject.

1482. Then, apart from this inspection, you have no other means of tracing the inefficiency of the schemes which are published?—Yes, we have the inspection of the accounts. I have already mentioned that in cases of financial collapse they come to us of themselves; but, apart from that, if there is reason to suspect that a school is not doing its work, we can look at the accounts which are annually rendered, and though that is not a complete means of ascertaining these matters, it assists. Sometimes an Assistant Commissioner, in visiting a particular place in order to make a scheme for an endowment there, is instructed to take the opportunity of inquiring how such-and-such a scheme in the immediate neighbourhood is going on. Sometimes he hears without any such special instruction. But without the systematic

Mr. *Oldroyd*—continued.

inspection we could not say that we were in a position to affirm that our schemes were being carried out as they should be, or the contrary.

1483. Have the Education Department any touch with the new schemes which are formulated?—Only where they involve elementary instruction. Some of our schemes for endowments involve the continuance of an elementary school.

1484. But what I wanted to know was this: you say that you have no means, or practically no means, of tracing the working of these schemes, except through these inspections; I want to know if the Education Department follow up these schemes apart from you?—Besides the various means that we have of ascertaining whether the schemes are carried out, there is no other agency; certainly not the Education Department.

1485. Then the Education Department specifically has no power?—It has not.

1486. You referred in your examination-in-chief to the fact that you had been strengthened, in three matters particularly, by the opinions in the House of Commons. One of those matters you said was this: that you had been enabled to increase the representative element in your more recent schemes, as compared with the former schemes; that is to say, representative trustees; and in so doing you have been backed by Parliamentary opinion, House of Commons opinion, I mean; is that so?—I think that was the substance of the answer that I gave.

1487. The point I want to raise is really this: whether the opposition to this representative element does not arive generally from the existing trustees, who do not want to be effaced?—Yes, I think, in cases where there has been opposition, that very naturally it would generally come from the trustees.

1488. And what I want to know further is, whether, in your opinion, after your very lengthened experience, it would not be necessary or expedient that further Parliamentary powers should be given to you for the increase of the representative element on the bodies of trustees?—I must explain that there are full Parliamentary powers in the Commissioners on the charitable trusts side, when an application has been made, to make whatever scheme in this respect, as in others, seems proper. No further Parliamentary powers are required for that purpose. You were referring to a certain strengthening of the Commissioners which I said was due to our knowledge of the opinion of the country as represented in the House of Commons.

1489. Yes?—But in that I meant that we have been strengthened for purposes of negotiation; I did not mean to say that we required more Parliamentary powers when once an application has been made and the jurisdiction thereby set in motion. I do think that it is desirable that the power of the charitable trusts side of the office should be extended to making schemes for larger charities without waiting for application; but that is another point.

1490. That is another point rather; but there has been an increase in the proportion of representative trustees in recent schemes, as compared with old ones?—That I have noticed.

1491. You

Mr. *Oldroyd*—continued.

1491. You say that that has been more or less brought about by Parliamentary opinion?—Yes.

1492. What I want to know is this: whether you as Commissioners do not feel it generally a desirable thing that these representative trustees should be largely increased?—I do not think there is any such general feeling among us to that extent.

1493. Then the opinion held by the members of the Commission does not coincide with the opinion held in the House of Commons?—I do not know that there is any opinion in the House of Commons that they should be largely increased from the point to which they have now reached in our schemes. This is a matter of opinion, perhaps, and that the opinion should be a good one, it should proceed from some one who is fully conversant with these schemes, which you understand I am not.

1494. What I wanted to arrive at was this (perhaps I may put the point more clearly in this way): In your judgment as a Commissioner, do you not think that an increase of the representative element in trustees should be made, so far as to make them a majority of the trust?—Not in all cases; but I think that the increase which has taken place has been decidedly for the better.

1495. You do not go so far as to say that they ought to be a majority?—Not in all cases. In many cases it is desirable that the representative trustees should be in a majority; I think in schools, I may say, so far as my experience extends, without exception. I speak of schools, because that is the point of which I have most intimate experience.

1496. The Commission are in accord, at all events, with the opinion in the House of Commons that doles should be abolished?—Without saying that they ought to be swept away in all cases, I think that the opinion which has been held, for the most part, in the House of Commons and by those who have had to do with charities, is the same.

1497. You do not think that there is any need for a strengthening of your powers with regard to the abolition of doles?—My answer must be the same as before: when once an application is made, the Parliamentary powers of the Commission are sufficient; but I think that they should be extended to schemes for which applications cannot now be obtained.

Mr. *Jesse Collings.*

1498. With regard to the inquiry of the Assistant Commissioners, I take it that the report of one of those Assistant Commissioners is private?—Yes.

1499. Would the Report be submitted to the local authorities?—Not as a rule.

1500. If asked for?—No; not as a rule.

1501. Is there any case in which the Report has ever been submitted to the local authorities within your remembrance?—No.

1502. You have stated to Mr. Oldroyd your opinion as to the feeling of the House of Commons with regard to representative trustees; do you remember the resolution of Sir John Swinburne passed by the House of Commons bearing on that point?—Yes.

Mr. *Oldroyd*—continued.

1503. Were not the terms of it (I speak from memory; you remember it, no doubt, better than I), that in all cases there should be a majority of representative trustees?—I think it went much further than that; I think it specified what the majority should consist of; did it not?

1504. "That in the opinion of this House every scheme of the Charity Commission ought to provide for a majority of the trustees or managers being directly appointed by the ratepayers in the locality to which the charity extends"; your opinion is not in accordance with that, speaking from your experience?—My opinion would not be in accordance with that resolution.

1505. Only as regards schools?—No; not even as regards schools could I accept that resolution, because, if you observe, the limitation of a majority to a single element, and that an element of representatives directly appointed by the ratepayers, goes very much further than the principle of which I was speaking, which is that of the increase of representative as distinct from nominated or *ex-officio* trustees.

1506. Then you would include in your use of the word "representative" the co-optative members, and any members who might be appointed by corporations or other bodies?—Not the co-optatives.

1507. Then I will say any other members appointed by corporations, or by bodies, and not directly from the ratepayers?—Yes; we include under the general term representative governors or trustees, all such persons.

Chairman.

1508. I suppose you adopt the meaning given to the word representative in that return which came from your department last year?—Yes.

Mr. *Jesse Collings.*

1509. You said that the Commissioners had power to see that schemes are carried out, and you stated that power was limited by the inspection which you had the power of making?—I think I mentioned also some other resources which we we had for finding out whether the schemes were carried out, but said that without that systematic visiting and inspection it would be insufficient.

1510. Has that inspection been carried out by the Commissioners to any considerable extent?—Yes, to a considerable extent. In my own district the counties which have been systematically inspected, include Northumberland, Lancashire, Cheshire, Gloucestershire, Staffordshire; that is to say, with the exception of Yorkshire, all the more important counties.

1511. Could you give some idea as to what proportion of all the endowed schools for which schemes have been made are subject to inspection?—Have been inspected, do you mean?

1512. Have been inspected; is it a half or a quarter?—I think it would amount to something like one-half, if it be remembered that my district includes Wales, which has not been inspected; though I know it as well as if it had, from the way in which we have had to go over the ground for the Welsh Act.

1513. May I ask if the instructions to the inspectors extend to their finding out whether the

Mr. *Jesse Collings*—continued.

the "due regard" clauses in the schemes are being observed?—Certainly.

1514. And you get reports as to that?—No doubt; that is one of the important points on which we have reports. Perhaps I should say that the instructions which we gave to the Assistant Commissioners in making these inspections were general, with two exceptions. They were not called upon to go minutely into the state of the property of the endowment, and they were not called upon to go minutely into the way in which education was given in a school. Those two special provinces it was felt we had hardly strength to undertake in this manner. With those exceptions the instructions, I think I may say, covered the whole ground.

1515. You said that the Charitable Trusts Acts should be administered independently of Parliamentary control; might I ask you what protection remains in the absence of any Parliamentary control for those interested in those charities in the locality?—I do not think I used the expression that the Charitable Trusts Acts ought to be administered or were administered independently of all Parliamentary control.

1516. I took it down so; but still I will take your own words?—Let me insert the word "direct" or "more direct" Parliamentary control. I did not see that there was any case made out for an increase of direct Parliamentary control.

1516*. May I ask what protection exists, including that Parliamentary control so far as it does exist, of those interested in the charities of a locality. Take this case for instance: Suppose the Charity Commissioners take a certain view with regard to the *cy-près* doctrine and produce a scheme in accordance with their view, and it is felt that the poorer classes are injured thereby; what protection have they got, if any?—An appeal may in any case lie to the Court of Chancery from a scheme.

1517. At the expense of those who make that appeal?—Well, no; the expense generally comes out of the charity in that case.

1518. But that appeal can only be made by the trustees in that case?—I think also by two inhabitants. You are now questioning me as to the details of the control of the Court of Chancery upon the charitable trusts side. Upon that I should prefer to accept the evidence as given by the Chief Commissioner, who is more intimately acquainted with it than I can pretend to be.

1519. Then we may take it that the appeal of those interested in the charities of a locality against the disposition of those charities by the Charity Commissioners lies with the Court of Chancery; there is no other?—With regard to the schemes under the Charitable Trusts Acts, the Court of Chancery is the tribunal; but that does not exclude other means of stopping the Charity Commissioners if they are doing anything which is considered wrong. The schemes are published, and objection is taken by those interested to anything by which they conceive that unjust or inexpedient provisions are being enacted. The effect of publicity upon the Charity Commissioners is, of course, the same as upon other agencies under which we live, and nterference (as Members of the House are well aware) in the House of Commons is by no means excluded in such cases at present.

1520. Then may we take it that the only possible opposition to the will of the Charity Commissioners is by moving public opinion; those interested have no power of appeal to Parliament or any real power beyond an appeal to public opinion in opposition to the wishes or conclusions of the Charity Commissioners with regard to any scheme?—I think there is, in the first place, the Court of Chancery; in the next place public opinion; in the third place Parliament, which exercises a very considerable watchfulness over what proceeds.

1521. In what respect have the persons affected by the charities, those in the locality, power of appeal to Parliament at the present time?—We will suppose that a scheme is being published by the Charity Commissioners for which there is precedent in what is done by the Court of Chancery, and therefore the trustees are advised that there would be no chance of upsetting the scheme if they appealed (that is the case I understand which you are putting to me), and that nevertheless it is thought and felt that the scheme is a wrong one. Well there is time, as a rule, for a considerable amount of pressure to be brought to bear upon the Commission, and for a full revelation of what is thought and felt upon the subject in the locality. In the next place if it is found that that objection is of sufficient strength, has sufficient backing, it is notorious that the House of Commons will take notice of such matters.

1522. In what manner can the House of Commons take cognisance of it?—In the form of a question, or if necessary by a resolution.

1523. Then we may take it that for people in the locality who are dissatisfied or who are unfairly dealt with in their opinion by any scheme of the Charity Commissioners, there is no remedy but an appeal to the Court of Chancery, and reference to public opinion, and a question in the House of Commons?—And in the last resort a Resolution.

1524. A Resolution in the House of Commons?—Yes.

1525. Do you consider that sufficient protection in the case of these charities, many of those who are affected by such charities being of the poorest and humblest class; do you consider that that is protection enough for them?—My own individual judgment no doubt goes to that effect, that it is sufficient. I give that answer of course with reference to the strict limitations, under which the jurisdiction of the Commissioners is exercised, and in consequence of the care with which, as I have observed, that jurisdiction is exercised.

1526. I am not impugning the action of the Commissioners at all; no doubt they act to the best of their judgment; but in cases where the poorer classes, for whom this charity is left, or rather I will say whose property it is (I object to the word "charity" altogether) feel that they are not being properly dealt with; do you consider that they should have more power of appeal against what they consider a wrong that is being done to them; whether they are right or wrong in their assumption is another matter?

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matter?—I do not quite see how you can do better than have an administrative tribunal like the Charity Commission in such matters, because the expense of a hearing at law was, as we know, the scandal which led to the foundation of the Commission; and that Parliament should take direct cognisance of all such cases seems to me to be out of the question. But I say that with the full knowledge that improvements may be suggested from time to time in the manner in which it is worked. Allow me to put in one exception to the general principle which is laid down in the question, that these charities are the property of people who might exercise an influence in the manner stated. Of course we are using the word "property" in a somewhat metaphorical sense; but, accepting that usage, I think it must be taken that charities are not the property of the existing generation only, that they are the property also of those who are to come after them; and that it may be necessary where the interests of the existing generation are not the same as those of a future generation, that an administrative body like the Charity Commission should be interposed as guardians.

1527. There was another statement of yours to which I will refer. You said that the House of Commons should receive information on all cases in which the House of Commons desires it; what I want to know is this: how are the House of Commons under the present system to know what is going on, and consequently, therefore, how can they tell whether they desire information or not?—I have already said that it is absolutely out of the question that any Member, or any number of Members, in the House of Commons should know all that was going on at the Charity Commission; they would have to spend as much time upon it as we do.

1528. Then it cannot be said whether they would desire information on the subject if they do not know what is going on?—No, in general I suppose not.

1529. Now, as to the schemes; you said that schemes must be laid before Parliament. I take it that only those schemes that are approved ever come before Parliament?—The only schemes that are laid before Parliament are opposed schemes on the endowed schools side of the Commission, a very special case.

1530. Could you say about what proportion of all the schemes that the Commissioners have made for endowed schools have ever come before Parliament?—Only the most infinitesimal proportion.

1531. May we take it at two per cent.?—No, you may not take it as being so high as that. Within my own recollection, that is to say, within the last 14 years, the number of schemes departmentally in my charge which have come before Parliament does not amount to half-a-dozen.

1532. Then the remainder of those schemes, the 98 per cent. or whatever the proportion might be, Parliament knew nothing about?—Parliament has not been asked to take any part in regard to it.

1533. And, therefore, the action of the Commissioners with regard to such a scheme is independent of Parliament?—It has been allowed to pass independently of any interference by Parliament.

Mr. *Jesse Collings*—continued.

1534. Now you gave some opinion with reference to doles; may I ask what you include in the term "doles," do you include such things as marriage portions, and the general statement in charities "for the advancement of children"?—No; using the word "doles" for the purpose of an illustration, I should use it in the strictest sense merely meaning gifts of money and in kind, without the special conditions alluded to.

1535. You have stated that the Commissioners have ascertained that the House of Commons were opposed to doles; in what manner have they ascertained that?—Chiefly by reference to the usual sources of information, the reports of the debates. I do not know that I should use the word "ascertained," but I do not object to the general conclusion that we do consider that the House of Commons has for five and twenty years past favoured the conversion of doles to better purposes.

1536. I take it it goes no further than this: that you have ascertained from debates in Parliament that the expressions of certain speakers have been opposed to doles; but that you had no resolution of Parliament, or no direct expression of the mind of Parliament, to that effect?—Oh, yes, we have several. There is Section 30 of the Endowed Schools Act of 1869, which gives us an entirely new and very extraordinary power of converting doles to educational purposes.

1537. I am not speaking of the Act of Parliament; I am speaking of any resolution passed by Parliament directly touching doles?—I am not able to quote any resolution; but I think an Act of Parliament must be taken as an expression of the opinion of Parliament of the highest authority.

1538. Now, you have stated that if a scheme is not rejected by the House of Commons, the presumption of the Commissioners is that they are in favour of the scheme?—The presumption is that they are not, at all events, so much opposed to it as to have thought it worth while to take notice of it. Of course I am well aware that schemes may often be considered to be beneath the notice of Parliament; not important enough to have been taken up.

1539. You named the instance of the Dauntsey Charity scheme, and one of the Committee took it for granted that that would come under the category of those schemes which the House of Commons favoured, because the House of Commons had not rejected it?—No, I think not. Let me explain. I was giving a very sweeping answer as to the entire absence from our records since I have been concerned in the work of schemes rejected in the House of Commons, and in order not to go too far I referred in a parenthesis to the Dauntsey scheme; but the Dauntsey scheme was not rejected in the House of Commons; it was withdrawn practically by the Government in the House of Lords as a consequence, I believe, of what had passed in the House of Commons.

1540. Are you aware that the reason of its withdrawal from the House of Commons, where the objection was lodged, was simply at the request of the Government on account of pressure of time?—No, I was not aware of that; I

Mr. *Jesse Collings*—continued.

think there was a great deal further pressure besides pressure of time. Pressure of time could not have affected the scheme in the sense of preventing it from passing; because the House of Commons is not called upon, unless they desire, to take any interest in a scheme.

1541. As the objection was in my name, perhaps you might take it from me that it was the direct wish of the heads of the Government that it should go to the House of Lords, in consequence of the extreme pressure of other Parliamentary work at that time?—In consequence of the extreme pressure which the honourable Member and others brought to bear upon the Government, and because there was not time for the scheme to be discussed.

1542. In your examination on Friday, at Question 1359, you seem to represent the schemes as Government schemes; would not that give rather a wrong impression to the general public?—I trust not, as I have couched the answer. I say: "The schemes which have become Government schemes" (in the manner previously described) "by the approval of the Minister."

1543. That we might take to mean that it is the approval of a Department of the Government, the Education Department; in that sense it becomes a Government measure?—Yes, and that by laying it on the Table of the House, of course, he has undertaken responsibility in connection with it.

1544. You state, in answer to Question 1349, with reference to the Welsh schemes, that "Large provisions have been made for securing to the poor free access to the schools by means of scholarships on the usual lines in schemes under the Endowed Schools Acts;" would you explain the particulars of these means?—The particulars of the scholarship system?

1545. Yes, as affecting the poor?—The words, "the usual lines," in that answer are explained by what follows, namely, in the form of scholarships conferred for merit upon a competitive examination; and to that I add that other provision has in these cases been made by means of what are called bursaries, which are given without competitive examination. There is thus in Wales a more perfect system for ensuring access of the poor to the schools than has hitherto been thought necessary in English schools.

Mr. *Egerton Allen.*

1546. Under the Welsh Intermediate Education Act, the schemes you have told us were left to the Charity Commissioners to draw up for the joint education committees; but they, the joint education committees, have throughout Wales taken very great interest in the forms of the schemes which have been drawn up?—The draft schemes which we sent down have been, to my knowledge, most carefully considered and revised throughout by the joint education committees. I am acquainted with what went on through the presence at these committees of my assistant commissioner in each case.

1547. These joint education committees have also had the assistance of the local committees in the various localities where it was proposed to set up schools?—So I have heard. Local committees were formed for the most part for the purpose of promoting schools in particular places, collecting money, getting if possible the offer of a site, and setting forward the claims and circumstances of the localities for the information of the joint education committee.

Mr. *Egerton Allen*—continued.

1548. The localities have had put upon them the duty of providing a site, and half, or at all events a proportion, of the money required for buildings?—Yes, that is the policy which has been very generally followed by the committees, and I think it was a good one.

1549. And have the localities shown themselves ready and willing to provide these sites and the money required of them?—The landowners have been very liberal in the offer of sites; and the funds which we have been informed were promised, and in some instances paid already, have been very satisfactory.

1550. Have you found that local charitable endowments have been much used for the purposes of these schemes, either in providing naked funds or in the way of providing the scholarships or bursaries?—No existing endowments have been included in the county schemes except those which were already applied to some school; it has not been found desirable, I believe, by the Committees to undertake the inevitable complication if action under section 30, for instance, for the appropriation of dole moneys to education was mixed up with the passing of the county scheme; but now that the county schemes are for the most part out of hand, some Committees are taking up and sending us proposals for dealing with separate endowments.

1551. When you said "some committees," do you mean joint education committees?—Yes; we have received proposals in that respect from Merionethshire and Carmarthenshire, and I think we have just received proposals from Pembrokeshire.

1552. Have you known cases in which any charity funds have been appropriated for the purposes of intermediate schools except those which are employed in educational institutions. I understand that certain educational institutions have been brought within the scope of your schemes?—That is so. And there are some instances, for instance the Meyrick endowment, which was waiting for a scheme; money provided out of funds, of which Jesus College, Oxford, were trustees, is included for a special purpose in the central scheme for the Welsh Board of Education. That is one instance; that was, you observe, already an educational fund, but it was not applied to any particular school.

1553. There are large charitable funds, are there not, in Wales connected with the putting out of apprentices?—There are some, but I could hardly use the word "large" in comparison with other parts of the country. The charities in Wales are very much smaller than the average of English counties all round.

1554. Then without saying "large," there are charitable funds for the purpose of putting out apprentices?—Yes.

1555. Have those, in any instance, been utilised for intermediate education?—Not as yet.

1556. Do you know if localities have desired

to

Mr. *Egerton Allen*—continued.

to utilize those funds, and trustees have demurred?—No, I cannot say that any instance has been brought to my knowledge as yet. As I have said, we are only beginning our work upon the separate endowments.

1557. In your opinion would such funds be properly applied to schemes for intermediate education?—The first, and perhaps most obvious application of an apprenticeship charity now is to what is called technical education; but whereas technical education is founded upon general education, and, to a large extent, is given in schools for general education, I think that the policy indicated by Section 30 of the Act of 1869 in that respect is correct.

1558. Would it, in your opinion, be wise to go beyond the policy of Section 30 and apply apprenticeship funds, out of all the different funds mentioned in Section 30, to education without the consent of the trustees?—I am not sure that it is necessary. Where it can be shown that apprenticeship funds are not effecting their original purpose, it is only a question of time before the trustees are brought to see that and to consent to a change of destination. It is possible that some further powers might be given after inquiry in view of the general failure of apprenticeship funds to carry out their purpose; but I cannot say I think the case is so strong as yet as to require legislation for the purpose.

1559. May I take it that, as far as you know, there has been no desire expressed in the localities that charitable funds should be applied for the purposes of endowing a school to be set up under the Intermediate Education Act, which has come into conflict with, and been opposed by, the trustees of those endowments?—I think there are such cases. I think I have seen indications that the committees have desired to apply such funds, educational or other, for the purposes of these schools, and that they have either met with, or are likely to meet with, opposition from the localities at present interested in them, and that opposition is generally represented by the trustees.

1560. You have put in contrast the Joint Education Committee and the localities?—Yes.

1561. I wish to put in contrast the localities and the trustees?—There will be some instances where the localities are willing and the trustees unwilling; but I do not think those will be common.

1562. Have you found in your experience that in Wales there is more or less conflict between the localities and the trustees than there is in the parts of England with which you are acquainted?—More in one respect, where the religious question enters into the matter.

1563. The trustees of charities take a different view from the people in the locality?—That question is an element of difference in Wales which does not exist to the same extent in the parts of England with which I am acquainted.

1564. That is speaking generally; I only want to finish up this part of my questioning by asking you whether you have found instances of that in framing your schemes under the Welsh Intermediate Education Act?—I have become

Mr. *Egerton Allen*—continued.

acquainted with some, but I cannot say that they have hindered us much.

1565. There is only one other point which relates to what has been already asked you, but something I think requires clearing up. The Merionethshire scheme included a clause relating to denominational religious instruction in boarding houses; is not that so?—Yes.

1566. And those are the provisions of the scheme to which you refer in Section 36 of the 41st annual report?—Yes, the religious instruction and family worship.

1567. It was those provisions which the Lords objected to?—Yes.

1568. And which were cut out?—Yes.

1569. The last words of your report are: "We have guided ourselves in the case of schemes since submitted in accordance with the policy thus indicated." May I take it that in the Flintshire scheme you desired to leave out the clauses relating to religious education in boarding-houses?—In the case of the Flintshire scheme it was already submitted. We had parted therefore with control over it before the vote was taken in the House of Lords on the Merionethshire scheme.

1570. Then there was no hesitation on your part in including in the Flintshire scheme this clause relating to religious education in boarding-houses?—We submitted the Flintshire scheme in the same form in which we had submitted the Merionethshire scheme. As I said on the last occasion, an amendment was effected in the Merionethshire scheme after submission by concert between the Education Department and the Charity Commission; and the scheme so amended was afterwards objected to in the House of Lords. The Commissioners did not make that amendment accordingly in the Flintshire scheme.

1571. But the Flintshire scheme contained the clause which had been objected to in the Merionethshire scheme?—Yes, it was made in the Flintshire scheme without the consent of the Commissioners, and it was not their scheme, therefore, which went to the House of Lords; it was the scheme of the Joint Education Committee as amended by the Education Department, which was the subject of the address the other day in the House of Lords on the Flintshire scheme.

1572. Was the clause relating to religious education in boarding-houses put into the Flintshire scheme by the Charity Commission?—A clause relating to religious education in boarding-houses was put into the Flintshire scheme as well as into the Merionethshire scheme, and the Denbighshire scheme, which is still at the Education Department. An amendment was proposed by the Education Department in the Merionethshire scheme, which was a sort of compromise between the clause that the Commissioners had inserted and the clause which had been inserted in the alternative scheme submitted in each case by the Joint Education Committee. In the Merionethshire scheme the Commissioners accepted that compromise; but it having been objected to and rejected by the Lords, the Commissioners declined, in the Flintshire scheme, to follow the precedent of the Merionethshire

Mr. *Egerton Allen*—continued.

scheme. Under those circumstances the vice-president disapproved the scheme of the Commissioners which we refused to amend, took the scheme of the Education Committee, amended it in that and other respects, and sent it to the House of Lords in much the same condition as the Merionethshire scheme had been. The House of Lords then took the same course in regard to the Flintshire scheme which they had previously taken in regard to the Merionethshire scheme; but the scheme upon which they acted was in the first case a scheme of the Charity Commissioners; in the second case it was not a scheme for which the Charity Commissioners were in that form responsible.

1573. When was that, may I ask?—The vote upon the Flintshire scheme was on the 17th of April.

Mr. *Freeman-Mitford.*

1574. This year?—The vote on the Flintshire scheme was on the 17th of April; the vote on the Cardiganshire and the Merionethshire schemes was on the 4th of September last.

Mr. *Egerton Allen.*

1575. Now I want to get this quite clear: that the Flintshire scheme was pressed upon you by the Education Department, and incorporated by you at the direct instance of the Education Department, and against your own first intention?—The Merionethshire clause, not the Flintshire clause. The Flintshire scheme came afterwards, when we had already become aware that a scheme in that form would not pass the House of Lords. We then declined to make this further change which was suggested at the Education Department; but in the first case it was accepted by the Commissioners.

1576. Then the change was made not by you but by the Education Department?—The last change was.

1577. The Flintshire clause was made by the Education Department and not by you?—One clause of the provisions which were under consideration, and one only.

1578. The religious education in boarding houses?—One of the clauses in the provisions which affected religious education in boarding houses. Without quoting the clauses and pointing out clause by clause what happened to each, I cannot make it clear, because it is a very complicated matter.

1579. I am very anxious that it should be clear; but I do not want to burden the notes unnecessarily. I will put it in this way: the Flintshire clause relating to education in boarding-houses was framed by the Education Department and not by you?—One small portion of the clause.

1580. In the case of this Flintshire scheme, the House of Commons accepted the clause as framed by the Education Department?—There have been no proceedings in the House of Commons.

1581. May I not say they accepted it?—I think my previous answer is the correct one; there were no proceedings.

1582. There was an opportunity to question it, and no advantage was taken of that opportunity?—Yes.

Mr. *Egerton Allen*—continued.

1583. Would you, therefore, say that this clause was rejected by more than one House of Parliament?—No; it was only rejected in the House of Lords.

Mr. *Jesse Collings.*

1584. You incorporate in your schemes charities that come under Clause 30 of the Endowed Schools Act, 1869?—We sometimes deal with a charity which is appropriated with consent of the governing body and falls under one of the categories mentioned in Clause 30.

1585. Then you are supposed to give the persons whom that clause affects corresponding advantages in the educational schemes you make? Yes.

1586. Do you remember the requirements, the directions, in the Act in that respect?—It is the general provision for due regard.

1587. Yes, by the 11th clause?—The provision for due regard is repeated in Sub-section 1 of Section 30.

1588. Calling your attention to the list of schemes made under Section 30 of the Endowed Schools Act of 1869, do you consider that the provisions you have made in those schemes sufficiently carry out the due regard clause?—Yes; we take very great pains in that respect.

1589. That is to say, the scholarships and exhibitions which you provide for you consider, or the Commissioners consider, are a sufficient compensation to the poor from whom these endowments, including doles and apprenticeships and various things, have been taken?—I have no doubt whatever that they are very much more than a compensation, that they are very much better things, and more especially for the poorest.

1590. That they directly affect the poorest?—Yes; we take care that they should.

1591. Might I call your attention to a charity at Cardiff called the Cradock Wells Charity, which was under the 30th Clause used for the benefit of the University College, Cardiff. I believe the date is 1889?—I think it was under Section 30.

1592. I believe the amount of that charity, at that time, 1889, was 1,600*l.*, or about 1,600*l.* per annum?—I think so.

1593. Am I right in remembering that according to the founder's intention his bequest was for the teaching of poor boys and girls of the town in reading, writing, and ciphering?—I cannot answer from memory, but I may call attention to the fact that if that were so, it would not have been under Section 30, and my previous answer would have been wrong. If there was any educational element in the charity it would have been under Section 24.

1594. Then is it not a fact that in 1821 there was a scheme framed by the Master of the Rolls of that day, which directed that reading, writing, and arithmetic should be taught, books and other necessaries supplied, and the remainder used generally for setting forth poor children in life by apprenticeship, purchasing clothing, and otherwise?—That agrees with my recollection, such as it is, but it is not very full at present, of the terms of the charity.

1595. Then, taking the 1,600*l.*, do you remember how that was dealt with under this scheme

Mr. *Jesse Collings*—continued.

scheme for the University College at Cardiff?—I think half of it was taken for the purposes of that scheme.

1596. That is 800*l.*?—Yes.

1597. And of the remainder, was there a further 200*l.* for scholarships in higher elementary schools?—Yes, I remember that; that was brought again under my notice lately when we were making the Cardiff general scheme, and that 200*l.* was increased then to 300*l.*

1598. Then as to the remainder, amounting to some hundreds of pounds, was that allowed by the Commissioners under the scheme to accumulate for the purpose of middle-class education in Cardiff?—No, certainly not; such a phrase as "middle-class education" is not used by us at all.

1599. First of all, was it allowed to accumulate, and then, for what purpose?—I think for secondary education, which belongs, of course, to an entirely different range of ideas from those which are denoted by "middle-class education."

1600. Then what return do the poorer classes get for having been deprived of this means of clothing and setting forth in life, and otherwise?—Well, speaking shortly, this charity has been a very large element in setting up the admirable ladder of education which now exists for the benefit of the poor in Cardiff. You have a provision for scholarships in the higher elementary schools; you have now founded under the Welsh Act, with the assistance of the charities, secondary schools, with large provision again for the poor; and finally, there is what is not to be found so frequently in places less favoured, a provision for the highest education, whether of a technical or of a more general sort, at the University College of Cardiff.

1601. Do those scholarships include girls?—Yes.

1602. Then may we take it that, taking the 15 exhibitions of 20*l.* each, and the 30 or 40 scholarships of from 3*l.* to 10*l.* each, making provision for about 50 children altogether, you consider that a benefit of this kind done to about 50 children compensates for the deprivation, if I may so term it, or the taking away of 1,600*l.* a year, money left for the benefit of the poorer children in Cardiff?—I do not recognise the scheme in the description given of it.

1603. Would you give your own description of it? Might I ask what is the number of scholarships and exhibitions that are put in the place of these benefits which the poorer children of Cardiff possessed under the endowment, as it stood, of 1,600*l.* a year?—The nature of them is threefold: there are the scholarships in the University College; the scholarships in the secondary schools; and the scholarships in the higher-grade elementary schools.

1604. Could you say how many children about that would affect?—No, I must beg to be excused from giving detailed answers as to the *minutiæ* of this scheme, which, since it was approved by the House of Commons, I have dismissed from my mind, to a certain extent. It must be remembered that this scheme which, as I understand, I am challenged to give details of, was the subject of a full debate in the House of Commons, and was approved by a very large majority.

Chairman.

1605. What was the date of that debate?—The 11th of April 1889.

1606. Are you acquainted with the details of the working of this scheme recently?—Not with the details of the working of the university part, but the details of the working of the part that was applied to scholarships in the higher elementary school I have recently had to acquaint myself with under the Welsh Act.

Mr. *Jesse Collings.*

1607. I wanted to have stated by you the nature of the provisions in the scheme made in lieu of the charities that were taken away from the poorer classes of Cardiff?—You must not expect me to accept what you lay down, that they were taken away from the poorer classes of Cardiff.

1608. Shall I say diverted, then?—No, not diverted from the class at all. The nature of the application has changed, and I have given, as well as I can, a description of the sort of scholarships which were given. I shall be very ready to answer any other questions that I can, as far as my knowledge extends, of the working of the scheme.

1609. Do you remember a return given by Mr. Thomas Ellis (who was then a Charity Commissioner), and I presume furnished by the Commission, as to the class of children who had availed themselves of the scholarships in 1890, 1891, and 1892?—No, it did not come under my department at all.

Chairman.

1610. That information was given by the then Parliamentary Commissioner from the Charity Commission to the House of Commons?—I can obtain full information, but that is not in my memory.

1611. My question is whether that information was not given to the House of Commons from the Charity Commission by the Parliamentary Commissioner at the time?—I believe so; but I do not remember the circumstances.

Mr. *Jesse Collings.*

1612. Does that return show that out of 104 of these scholarships only seven have been held by children who could be called of the poorer classes?—I have no knowledge whatever of the subject; you must remember that I can give no information off-hand on a question which is not in my department. After a scheme is made the administration of the scheme is not within the charge of the Commissioners under the Endowed Schools Acts. Therefore if full information is wanted as to that which is done under the Charitable Trusts Acts, the supervision of the working of schemes, it should be asked for either from the secretary or from the Commissioner in charge of the case, who would be in this case Mr. Alderson.

Chairman.

1613. May I ask you this: As a Charity Commissioner under the Endowed Schools Acts, you are not aware of all the questions that are asked in the House of Commons affecting your department; is that what you say?—Affecting

Chairman—continued.

my department, yes; but affecting the other departments of the Commission, no.

Mr. *Jesse Collings.*

1614. Then, might I ask you this question: What means have you of knowing whether these scholarships under the scheme of 1889 (if that is the correct date) have been earned and are held by the class of children for whom such scholarships were intended; what means have you of knowing whether that is the case or not?—We should send down an Assistant Commissioner to inquire, if necessary.

1615. Has that been done?—No, not in this case.

1616. Then you have no knowledge from inspection as to whether those scholarships are or are not enjoyed by the class of people for whom they were intended?—So far as the university scholarships are concerned, the scheme will have been worked now for about three years in full, and it will be inspected, no doubt, in time; but it has not yet been inspected.

Mr. *Freeman-Mitford.*

1617. Before we leave this question altogether I should just like to ask you this question: The impression which your evidence leaves upon my mind is this, and I should like to know whether I am correct, that you are of opinion that this charity has not been diverted from the class for which it was intended, but simply that opportunities have been given to that class of getting a higher class of education; is not that so?—Yes, that is substantially what I think has been done; but more than a higher class of education, because the technical education which is given them as perhaps best suited for them is, as I have already said, distinctly the very best substitution that can be made for the advancement in life which was given by means of apprenticeship.

1618. Therefore, in your opinion, so far from any injury having been done to the class for whom the charity was intended, on the contrary the tendency has been rather to give them a chance of improvement?—So I say.

1619. I have nothing more to ask you on that point. Now, you are a temporary Commissioner, and at the same time I gather from your evidence that you do not see any finality at the present moment in the nature of your work?—Not a complete termination of it.

1620. That is what I gathered?—There is an element in the work which will be done once for all: there are other elements which will remain.

1621. There will always be revision, I suppose?—There will always be revision, and there is an increasing amount of supervision.

1622. Then as regards the questions which were put to you as to the increase of your staff; I imagine that there would be no economic gain under those circumstances in hurrying on the work by such an increase of staff?—I think I have said that I could hardly estimate whether there would be an economic gain or not; there would be a certain loss in hurrying on the work if done under the present Acts, namely, that we find it very much better to work with good will in the localities, and that takes time.

Mr. *Freeman-Mitford*—continued.

1623. Then as regards Parliamentary control, it has been said that there is no Minister at the present moment who can be questioned on the acts of the Commission; but is there not a Parliamentary Commissioner appointed always on behalf of the Government?—That is the object of his appointment.

1624. And are not questions continuously addressed to him in Parliament?—Yes.

1625. Then you spoke of three courts of appeal as it were; one the Court of Chancery; another, Public Opinion; and the other, Parliament; now, do you not consider that that power of appeal is sufficient?—Yes; I think I have explained my ideas upon that to that effect.

1626. Then Mr. Collings put to you the question whether it was not the case that in certain schemes no question had been asked in Parliament, and no complaint had been made to Parliament, and therefore Parliament had no control in those schemes. Would it not be fair to suppose, that if no questions are asked in Parliament, and no complaint is made to Parliament, the people of the district are satisfied; would not that be a fair assumption?—So far as schemes under Endowed Schools Acts are concerned; but it would not be a complete statement of the case in regard to schemes under the Charitable Trusts Acts.

1627. Why not?—Because Parliament does not exercise a regular supervision or control over those schemes, but only occasionally, when they happen to be brought to its knowledge.

1628. But, supposing that there were any abuse of their powers by the Commissioners, would not the people of the district immediately address their Member with a view to getting the question brought before Parliament?—If not immediately, I think I may take it that if there were errors in policy, repeated or systematic, or in any respect serious at the Commission, we should hear of it through the objections which would be raised in Parliament.

1629. Now, as regards direct Parliamentary control, which, I suppose, means a Minister in connection with the department or at the head of the department, do you think that such an arrangement as that would be as satisfactory as the present neutral condition of the Commission?—I think that, speaking of the charitable trusts side of the office, it is much better as it is.

1630. You draw a distinction as to that between the charitable trusts side and the educational side under the Endowed Schools Acts?—Yes.

1631. But as it is on that side, on the side with which you are more immediately concerned, you have a Minister in touch with you in the shape of the Vice President of the Council?—Yes; the circumstances are so different that I must separate my answer.

1632. But I am talking about the thing as it is; you are content, I imagine, with the state of the case as it is?—On the charitable trusts side I am.

1633. Would you prefer to have a Minister in more direct touch with you than the Vice President of the Council under the Endowed Schools

Mr. *Freeman-Mitford* – continued.

Schools Acts?—I think that certain changes must be contemplated in regard to the Endowed Schools side, which I can hardly go into without taking account of a good deal that is not at present before us, the future work of organisation of secondary education; and, as I have explained to the Chairman, I do not propose to offer any evidence upon that subject on this occasion.

1634. Then I gather that you are satisfied as regards the charitable trusts, but you think that there is room for improvement in your own branch?—I think that some changes must be contemplated in view of the different kind of work which is expected to be done in my own branch.

Mr. *J. W. Lowther.*

1635. I should like to clear up the Cradock Wells case; that case was under the direct control of Parliament, was it not?—It was, as being a case on the Endowed Schools side.

1636. On the 11th of April 1889, I observe that Mr. Jesse Collings moved as follows: "That an humble address be presented to Her Majesty, praying Her Majesty to withhold her consent to a scheme for the management of Cradock Wells Charity in Cardiff, now lying upon the table of the House"; do you remember that occasion?—I do.

1637. Do you remember the result of the discussion and the division in the House; would this be correct: "The House divided: Ayes, 43; Noes, 171"?—Yes; I remember that was about the figure.

1638. Do you consider that when a scheme is approved by Her Majesty's Government, Her Majesty's Government are then responsible for the scheme?—Yes; but not of course so as to relieve us from such responsibility as attached to us all along.

1639. Do you agree, then, with what fell from Mr. Mundella on that occasion: "This Cradock Wells scheme is not the scheme of the Charity Commissioners, but of the Government"?—It was the scheme of the Government, but it was also the scheme of the Charity Commissioners.

1640. And that "it is shabby to put the responsibility for the scheme on the Charity Commissioners instead of upon Her Majesty's Government"?—It was very kind of Mr. Mundella to put it so.

1641. The Chairman reminds me that Mr. Mundella was not then in the Government. With regard to that I observe that he says: "When I sat on that bench" (the Treasury Bench) "I always took the responsibility for these schemes, and they ought to be prepared to take the responsibility for this scheme;" do you consider that to be a fair statement?—I think that the result of proceedings, the importance to us of proceedings of this kind in the House of Commons, is that from time to time they enable us to feel that our responsibility is shared by the House of Commons, and that is of great assistance to us in our work.

1642. At all events at the present moment is responsible for this scheme, is it not?—Yes.

1643. Having approved it by a majority of over 4 to 1; and therefore whether you were or were not more under the direct control of Parliament would not signify when once Parliament has expressed its opinion upon the scheme?—Certainly, it does not seem to me to be an instance which can be quoted as showing that more control on the part of Parliament is required over our work.

Mr. *J. W. Lowther*—continued.

1644. If this scheme has failed utterly, Parliament is as responsible for its failure as you are?—I think so.

1645. Now, with regard to the amount of work which yet remains to be done, in so far as your work is concerned under the Welsh Intermediate Education Act, it is very nearly complete?—So far as my work under the Welsh Act is concerned, I can hardly say that it is very nearly complete. The most important part of the work is practically complete, the making of the general schemes; but how much there may remain to be done in the shape of schemes for scattered endowments depends not upon the Commissioners nor upon any estimate they can form, but upon the action of the Committees, and therefore I can hardly venture to reply.

1646. Have you submitted all the schemes?—All the general schemes except one.

1647. And I think about six or seven of them have been approved?—Yes.

1648. And a certain number of them have been approved by the Education Department?—Out of the 16, or rather 17, schemes, including that for the Central Board, seven, or I think eight now, have passed into law, and the rest, all but one, are in some stage of procedure at the Education Department.

1649. The Education Department when they receive a scheme from you publish it?—Yes.

1650. And, of course, they receive objections from the locality in which it is published?—That is so.

1651. And they consider those objections fully before they approve or disapprove the scheme?—So I conclude.

1652. And if those objections prevail I presume that they do not approve the scheme?—Certainly.

1653. They sometimes return it to you?—In that case they have two courses open to them; they may reject the scheme, or they may remit it to us for amendment in accordance with the declaration.

1654. Do you receive much assistance from the Education Department in preparing schemes; do they suggest to you the right line to take in preparing schemes?—No; they have nothing to do with the schemes until they are completed and submitted.

1655. Their action is guided then entirely by the objections which they receive, or which they entertain towards the schemes as they come up to them?—Yes, and I hope to some extent by the representations which we are able to make on the other hand in reply to the objections.

1656. Now, is it possible to contemplate that there should be a separate Minister who would be responsible for your conduct in preparing the schemes, whilst at the same time there remained another Minister in connection with the Education Department who was responsible for rejecting or amending them?—No; that would be impossible.

Mr. *J. W. Lowther*—continued.

1657. The only alternative possible is that the one Minister should be responsible both for the preparing and for the rejecting of the schemes, or their approval?—Yes.

1658. And was it not because it was found to be an inconvenient practice that the appointment of the fourth Charity Commissioner was revived, and separated from the Vice President of the Council?—That is hardly a complete statement of what occurred. The Vice President found that it was impossible for him to act in the double capacity of one of the Commissioners responsible for the framing of schemes, and of the Minister responsible for the final consideration of them; therefore he left off attending. After that we had no one to communicate with in respect of what was going on in the House of Commons, and for that reason the fourth Commissioner was revived, and an unofficial member, or, at all events, a member who is not the Vice President of the Education Department, has been substituted.

1659. I will put it in this way: Does not the present system give greater facilities to the public for objections by reason of there being two publications than there would be if the preparation and the approval of the scheme were in the hands of one Minister in one department?—Yes, certainly.

1660. The public at present get two shots at the scheme; first of all, when it is published by you; secondly, when it is published by the Education Department?—Yes

1661. There is one matter about which, I think, there is a certain amount of misconception. As soon as a scheme is approved by Her Majesty, the working of it is no longer under your department, but under the Charitable Trusts Department?—Yes.

1662. You are then no longer charged with the superintendence or the working of it?—That is so.

1663. Because every endowed school is a charitable trust, is it not?—Yes.

1664. And, therefore whether established by a scheme or not, that school, being a charitable trust, is subject to the control and under the department of the Charitable Trusts Commission?—That would not in itself be conclusive, because it would be quite within the competence of the Board to order by a general rule that such and such cases should be the departmental work of one of the Commissioners under the Endowed Schools Acts. At present that is done case by case. When it is necessary for a case to be taken in hand again by myself or my colleague, a special minute of the Board is passed. But it would not, I think, be proper for the Board to act so, because it would be going counter to the general understanding that our appointment is temporary, and is to terminate when we have got through the work of making a scheme for each of the endowments that require it.

1665. But, *primâ facie*, as soon as the scheme is through, the working of the scheme comes under the jurisdiction of the Charitable Trusts Commission?—Yes, on the Charitable Trusts side of the Commission.

1666. And it is only in exceptional circumstances that your attention is again called to that scheme?—Yes, when there appears to be a *primâ facie* case for an amending scheme, and for an amending scheme under the Endowed Schools Acts.

1667. Thus, for instance, in the case of the answer given by Mr. Thomas Ellis relating to the exhibitions at the Cardiff University, it would be a matter which in the office would be worked out under the Charitable Trusts part, and not under your department?—Yes.

1668. And that, of course, is the reason why you are not acquainted with the figure which Mr. Collings put to you just now?—Certainly.

1669. But if desired, any officer from the department could explain the answer that Mr. Thomas Ellis gave?—Yes.

1670. You were asked with reference to the protection which exists against the action of the Charity Commissioners. If the Charity Commissioners go outside the law, I suppose the protection which exists is the protection which exists for everybody, namely, an appeal to the law?—Yes, to the Court of Chancery in the case of the Charitable Trusts side, and to the Privy Council on the Endowed Schools side.

1671. And I think there is also an appeal in questions of discretion being improperly exercised by the Charitable Trusts Commission?—Yes, if the discretion is improperly exercised.

1672. And the advantage which any person has over all his fellows in bringing such a matter before the Court is that he gets his costs paid out of the charity?—Yes; that is rather too frequently the case in my opinion.

1673. Do you find in working the Welsh Intermediate Education Act that there is friction between the localities and the Joint Education Committee at all?—There will be in some cases.

1674. The Joint Education Committee, I suppose, might be inclined to move charities from one place to another, which would give rise to a great deal of opposition?—The localities have generally succeeded in those cases. Perhaps as this point has been raised, I may take this opportunity of correcting an inaccuracy in an answer I gave on the last occasion.

Chairman.

1675. Do you remember the number?—It is at Question 1366. I answered in the affirmative the question: "In the case of Cardiganshire the House of Lords set aside, if I may use the expression, the locality and the Government?" and was thus speaking of the locality as if it had been the local or county committee. The locality in that case was at variance with the Joint Education Committee, and the view taken by the Charity Commissioners was that the locality, as represented by the Town Council and the School Board, and some other bodies of that kind, had made out their case; and it was on that ground that we ventured to differ from the Joint Education Committee. My answer ought to be explained in that manner.

Mr. *J. W. Lowther.*

1676. When you use the word "locality," you do not mean the trustees of charities but the general local people?—There was no charity engaged in this particular instance; it was the general

Mr. *J. W. Lowther*—continued.

general local feeling of a particular district within the County of Cardigan.

1677. As far as I understood your answer to Mr. Allen just now, in your opinion there is more friction between the Joint Education Committees and the localities than there is between the localities and the trustees of charities?—I can hardly give a quantitative estimate of the respective amounts of friction; but I think the cases in which the localities have been at variance with the Joint Education Committees have come to my notice more, because I was dealing with the Joint Education Committees and their proposals.

1678. I suppose sometimes you find that you have to support the interests of children against the interests of parents in framing schemes under the Endowed Schools Acts?—I think that is so; I think that sometimes their interests cannot be said to be the same, and that it is of course the children whom we must consider in the first place.

1679. Of course, that gives rise to what at first might be thought to be friction between yourselves and the localities?—Yes, it does sometimes.

1680. The ratepayers, for instance, as a rule, would be found to be in favour of any scheme which would relieve the rates?—That difficulty was more insistent at the time when I gave evidence before the last Parliamentary Committee, in 1886.

Chairman.

1681. You went into it at very great length, I think, then?—I did.

Mr. *J. W. Lowther.*

1682. And of course you consider it your duty specially to protect the interests of the children, where the interests of the children and the parents would clash?—Yes.

1683. With regard to the action by one Commissioner, as I understand, you have full powers under the 5th Section of the Endowed Schools Act, 1874, for one Commissioner to act in every respect except in the submission of schemes?—Yes.

1684. But, as you have explained to the Committee, by arrangement you do not act singly, except in what may be called the less important matters?—Routine matters, matters of small importance, and matters for which there exists a clear precedent.

Mr. *Lawson.*

1685. In answer to Mr. Freeman-Mitford, you said that in view of contemplated changes it was necessary to separate the Charity Commissioners proper and the Endowed Schools Commissioners; may I ask whether by that you meant that it might be necessary to separate the offices?—No; I only meant that I must separate any answer that I gave on the one head from its being supposed to include an answer on the other.

1686. Would you be in favour, supposing extensive changes took place in reference to secondary education and its organisation, of your

Mr. *Lawson*—continued.

being transferred bodily from the Charity Commission to the Education Department?—I should prefer not entering upon that subject; it would require a very considerable amount of explanation, and it appears to me that it must be dealt with not with exclusive reference to our present work.

1687. I was assuming that some changes are contemplated; do you believe that if such a change took place it would be possible to place your Commissioners satisfactorily in the other office, to give you sufficient independence, for example?—I can hardly answer the question without going more into detail on the subject.

1688. Can you tell me whether at the present time, if one of your schemes is questioned in the House of Commons, the Vice-President of the Council takes upon himself to justify it, or merely considers that he is your mouthpiece?—When a scheme is questioned in the House of Commons it has, as I have explained, already become a Government measure, and the Vice-President of the Council of Education is the member of the Government who is expected by his colleagues to support it in the House, as he is responsible for it departmentally.

1689. Then, in regard to those schemes, no difficulty could occur such as might occur in regard to charities, because, of course, the Government does support them; they get the momentum of the Government behind?—Yes; the conditions of the work are different in that respect.

1690. In regard to that part of your Parliamentary work, you have actually at the present moment, owing to the processes observed, a Minister responsible for your schemes?—Yes; I believe it may be said that there is complete Parliamentary control.

1691. When questions of policy are raised on your salaries, does the Minister for Education think himself at all responsible?—I believe it is the Vice President generally who takes charge of the Estimates.

1692. In your case is that so; are you sure?—I am not.

1693. On another matter: can you tell me how long, as a rule, does it take for a scheme after it has left you to return to you from the Education Department?—In the case of a scheme which is remitted for amendment, do you mean?

1694. Which is remitted to you from the Education Department?—Or returned for administration, as approved by Her Majesty?

1695. Yes; how long, as a rule, does it take?—I think it may be said that the approval by Her Majesty follows the submission of a scheme in a period of time from six months to rather more than 12, according to the opposition that it may meet with.

1696. Do you think that that is an unduly long time?—I think the time is rather unduly long, if it is remembered how much time is spent before they are submitted.

1697. Does that come about because of the sending backwards and forwards between the two Departments, and the want of personal communication?—I think that the cause may be assigned, in the first place, to what has been noticed, namely,

Mr. *Lawson*—continued.

namely, the double publication; that the public are given (as was put to me in a question just now) two shots at a scheme.

1698. It is not owing to delay in the Department?—I should be sorry to think that delay in either Department was responsible for any large portion of the time. The protraction of cases next to what I have just now mentioned, the duplication of the important stage of publication, is, I think, principally due to a necessity of the case, namely, the slowness of correspondence when conducted with bodies of trustees who only meet perhaps it may be twice or three times a year; and the delays accordingly in obtaining answers are sometimes considerable.

Mr. *J. W. Lowther.*

1699. When you have made your scheme and submitted it it never comes back to you at all in the ordinary course of things?—It cannot be said to come back to us more than the rest of the world, but it may come back for administration to us when it has become part of the law.

1700. There is really no going back from one department to the other except under exceptional circumstances?—Yes.

Mr. *Lawson.*

1701. It was not intended by my question to convey that; I wanted to know whether while the scheme is before the Education Department there is not a necessity for communication between you who have drawn it up and those who have to correct or supervise your work?—Yes.

1702. And does that take place?—Yes; that takes place, but that gives no occasion for delay. That communication between two Government offices is very speedily done.

1703. It has nothing to do with the alleged inadequacy of staff at your office?—No, that is not in any way concerned.

1704. Mention was made in the Report of the Committee, 1887, and it has been alluded to here, of their desire to get the local opinion through municipal bodies and local authorities; I wish to put a question to you as to how far the work of your Department has been increased, and whether the proceedings have been protracted owing to the creation and existence of the county councils?—The work has been somewhat increased, because there is more good work to be done now that we have the county councils in the field, and the funds at their disposal; but certainly the existence of the county councils has not operated to delay schemes, but in some instances has given us a distinct help.

1705. Do you yourself, in that part of the country which you deal with, make a point of communicating your schemes to the committees of the county councils charged with that sort of work?—Yes, where there is anything where they can help us, or which it is important that they should know.

1706. How do you form an opinion as to whether it is important that they should know?—In almost all cases it does become proper to communicate with the county councils, because we hardly ever make a scheme now for a school without introducing a member of the county council upon the governing body; but there might be a scheme, say, for a small exhibition endowment in a parish, in which it might be quite unnecessary to trouble the county council.

1707. I put it to you, whether, considering they are the municipal authority for the county, it is not advisable that every scheme which concerns anything but a county borough (which is outside their jurisdiction) should go to them?—I have no objection to it at all.

1708. Do not you think that it would be more satisfactory to you to have the support of local opinion, or, anyhow, to get a local opinion upon your schemes by that means?—In many cases, perhaps, I might say in most, it is advisable, and we do obtain it.

1709. Do you see any objection to making that an invariable rule?—No great objection. I do not think it necessary in the case of all schemes; some are very small matters.

1710. But still they interest some part of the county?—I have not heard any complaints of our not having informed county councils of anything as yet. I do not wish to allow it to be supposed that there is any reluctance to send them copies of all schemes which they wish to have.

1711. Have you obtained valuable advice from county councils in England?—Yes, from their organising secretaries and from particular members.

1712. And you have dealt with the London schemes in the same way, though that is not your particular branch?—I am not departmentally concerned with London charities.

1713. May I ask whether it would not always be requisite to keep Sub-Commissioners in existence for re-inspecting, even if your own work in the first case was got through?—I think it would; I think that the work of Assistant Commissioners at all events must be considered as having become a necessary permanent element in the administration.

1714. How often do you consider that it is wise and necessary to go through the schools that have come under you in this way?—I cannot say that we have formed any conclusion on that point; we have not yet been able to go once through the whole of England.

1715. You have not got any rule as to the time for periodical inspection?—No.

1716. You will have probably to make rules if any changes are made with regard to secondary education?—I think rules will have to be made upon that point.

1717. Does any part of the last Local Government Act, the Parish Councils Act, as it is commonly called, concern you in the Endowed Schools department?—I think not specifically.

1718. Will you make any change of procedure when those bodies are called into existence?—No; for I can hardly call it a change of procedure to communicate to the parish councils schemes that concern the parish. That, of course, will be done; but it is so distinctly a part

Mr. *Lawson*—continued.

part of the policy that we now pursue, that I can hardly call it a change of procedure. The parish councils will be of assistance to us in forming governing bodies; also they will give us a cheaper way of obtaining representatives of the ratepayers than by having an election *ad hoc;* but even that I can hardly consider a change, either in policy or procedure.

1719. But it facilitates the process?—It does; it will be a great benefit to the work.

Wednesday, 23rd May 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Howell.
Mr. H. L. W. Lawson.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

Sir GEORGE YOUNG, Bart., re-called; and further Examined.

Sir *Andrew Scoble.*

1720. I WANT to ask you one or two questions about the existing Parliamentary control over schemes under the Endowed Schools Act. Under the 41st Section of the Act of 1869 it was provided that all schemes should be laid before Parliament, was it not?—It was.

1721. And that section was repealed by the Act of 1873?—Yes, by Section 20.

1722. And it was provided by Section 15 that only schemes with regard to which a petition had been presented to the Committee of Council on Education praying that the schemes be laid before Parliament should be so laid before Parliament, and it is only in such cases that the schemes now are laid before Parliament?—That is so.

1723. Can you tell us why that alteration in the law was made?—I believe because it caused further delay, and was not considered necessary, that the schemes should be laid before Parliament.

1724. Would it also cause further expense?—I do not know that it would cause further expense.

1725. Since the alteration of the law, can you tell me at all what proportion of schemes framed by the Endowed Schools Commissioners have been required to be laid before Parliament?—No, I cannot; it is a very small one, and, as I think I have said before, since I have been in charge of a department of the work, of the schemes for which I have been responsible, not above six have been laid before Parliament.

1726. Six out of about how many?—In 14 years; I suppose some hundreds.

1727. And in how many cases have the schemes been modified in consequence of their having been laid before Parliament?—In only three during the time that I have been cognisant of the work.

1728. Has that been in consequence of the action of the House of Commons or of the action of the House of Lords?—Of the House of Lords, I think, in every instance, with the exception that I discussed on the last occasion.

1729. In one case by the House of Commons; in the other cases by the House of Lords?—No; in one case in consequence of what passed in the House of Commons the scheme was withdrawn in the House of Lords. That was a special case.

Chairman.

1730. Is that the Dauntsey case?—That is the Dauntsey case.

Sir *Andrew Scoble.*

1731. And in the other cases it was the action of the House of Lords that secured the reconsideration or the revision of the scheme?—In each instance.

Mr. *Griffith-Boscawen.*

1732. I think Mr. Richmond told us that in England the county councils were in the habit of subscribing towards local charities if representation were given to them in the schemes; that is the case, is it not?—By "local charities," you mean schools.

1733. Yes, certainly, as referring to your department?—Yes, it is very common for the county councils to make grants in respect of technical instruction given in the schools, and in such cases they naturally desire and obtain representation upon the governing body.

1734. Under the Welsh Intermediate Education Act you are bound to consult the Joint Education Committee?—Yes; it is more than that; it is the Joint Education Committee that initiates the scheme under the Welsh Act.

1735. In consequence of that, I suppose you do not get the *quid pro quo;* is it not the result that the county councils do not contribute in the way they have done in England?—Not in the way in which they have done in England; but to a very much larger extent, because it is from the county councils that we obtain the halfpenny rate, and the whole of the grants, instead of only a portion of them as in England, under the Local Taxation Customs and Excise Act.

1736. In other words, you have got a larger contribution from the county councils than you get in England under the other circumstances?—Yes.

1737. Now, how many Welsh schemes had the Commissioners passed before the Act of 1889 was carried into law?—Not many. Up to the year 1880 the work in Wales went on *pari passu* with the work in England; but between 1880

Mr. *Griffith-Boscawen*—continued.

1880 and 1889 the whole of the work in Wales was stopped, waiting for legislation; and therefore the total number of schemes passed under the Endowed Schools Acts, independently of the Welsh Act, is in Wales small.

1738. Were there any complaints against the points in the Welsh Schemes before the passing of the Act; complaints from the localities I mean?—I am not cognisant of the work before 1880, but I believe that there were complaints; not more of the scheme than in England, but more of the Act than in England.

1739. Of which Act?—Of the Endowed Schools Act; that is to say the arrest of the Welsh work was due to discontent in Wales rather at the operation of the Act than at the policy of the Commissioners.

1740. What was the ground of the complaints; in what way did they dislike the working of the Act; was it a religious question?—I believe that the controversies were founded upon religious questions.

1741. Chiefly, I suppose in connection with religious instruction?—I think rather owing to the fact that the principal Endowments in Wales were connected with the Church of England, and that so long as the secondary instruction of Wales was founded exclusively upon these endowments it necessarily assumed under the Endowed Schools Act a more decided Church of England character than was suited to the circumstances of Wales.

1742. Now since the Welsh Intermediate Education Act was passed, has there been more or less complaint in your opinion?—Less; that is to say the Welsh Intermediate Education Act up to the present time has been put into operation without much complaint; but you are aware that the business is only in the first stage as yet.

1743. You mean that very few of the schemes have actually passed into law, that it is rather in the formation of schemes only than in the operation of schemes that complaint has arisen?—About half the County Schemes have passed into law, but hardly any of them can be said as yet to be in operation.

1744. But do you think that any further transfer of power from the Charity Commissioners to the local bodies would increase or diminish the number of complaints?—In Wales, do you mean?

1745. Yes, in Wales?—I think that it would probably increase the number of complaints from one side or the other.

1746. Why?—Because I take it that the best way to avoid complaints is to carry out the policy of an Act of Parliament with strict impartiality from a point of view somewhat remote from that of local people; therefore, whatever might be gained on one side supposing a transfer of power from the impartial body to the locality, would very likely be lost upon the other.

1747. You mean that the local body may be a very partial body; at all events there may be a majority of it that represents one side only, and which may bring forward its own scheme irrespective of the wishes of the minority?—Yes;

Mr. *Griffith-Boscawen*—continued.

in a body of trustees on the one hand, or in a county governing body formed of representatives on the other, that is very likely to happen.

1748. Now is not that exactly what did happen in the case of several of the counties. You said, I think, in answer to Question 1353 that you were not able to adopt in all particulars the proposals of the local bodies, the local committees?—The points in which we were unable to adopt the proposals of the local bodies were in some cases such questions as I explained on the last occasion affecting, for instance, religious instruction in boarding-houses; they belong to the category of which you speak; but there were others which raised no party feeling, but which belonged to the region of educational questions.

1749. You mean in fact that there were two classes of objections; in the first place there was the minority who objected to certain religious clauses; in the second place from educational points of views certain localities in the county were at variance with the general county authority, the local county committee?—That happened in one or perhaps two cases.

1750. Were there any other points in which you found great difference of opinion, and were you unable consequently to adopt the recommendations of the local committees?—There were a very few upon such questions as whether the railway fares of governors should be paid on proceeding to their meetings; where we thought a new precedent would be established which might lead to abuse.

1751. What I want to get at is exactly on what principle you refused in certain cases to adopt the recommendations of the local committees; was it this principle, that you being an impartial body could take a more impartial general survey of the needs of the county than the local committee could?—I cannot group all the cases, or even any large number of them under any general principle; but it may be said, I think, that the views taken by the Commissioners in so far as they differed from those taken in the locality, were in a majority of instances by way of sympathy with a case or in defence of a position which appeared to have been neglected by a majority in the local body.

1752. Now, that being the case, the Education Department supervened and altered the scheme so that the wish of the majority prevailed, and the more impartial view taken by you was set aside; it not that the case?—Well, without expressing any opinion as to the character of the action of the Education Department, there was one case, which I have already fully described, in which a different view was taken from that of the Commissioners.

1753. Is that the Cardiganshire case, or the Merionethshire case?—There were, I should have said, two cases, Cardiganshire and Flintshire.

1754. At all events, in both those cases, in order to harmonise the general scheme with the wishes of the particular locality, or with the views of the minority, you made a change in the proposal of the local committee, the Education

Mr. *Griffith-Boscawen*—continued.

Department over-ruled you, and practically re-instituted the views of the local committee; is not that the case?—Yes, that is a correct description.

1755. The result of that was a collision between the House of Lords and the Education Department?—It was in part as a result of that, but in part also because the House of Lords disapproved provisions which the Charity Commission had consented to insert, as in the Merionethshire case.

1756. In the Cardiganshire case the House of Lords merely took your point of view in preference to that of the Education Department?—I think that may be said.

1757. In fact, in consequence of this Act, there has come about a difference between the House of Lords and the Education Department which has scarcely ever taken place before?—I can hardly go so far as to say that it has scarcely ever taken place before, but it has been infrequent.

1758. Now, looking to Parliamentary control, I suppose you will admit that under the Welsh Intermediate Education Act and its consequences, you have got now, so far as theory is concerned, very complete Parliamentary control?—I think the Parliamentary control over the schemes made on the Endowed Schools side of the Charity Commission is, as I said, complete.

1759. In fact, do you not think it is almost too complete?—No, certainly not.

1760. But, at all events, the Education Department is able to overrule the more impartial view taken by you?—I must recur to the original intention of this legislation. The idea is that schemes made by the Commission are to have the force of Acts of Parliament; but since they deal with details into which Parliament cannot be expected to go, the task of elaborating the legislation is entrusted to an administrative body. Looking at these schemes from this point of view, it is impossible to say that Parliamentary control can be too complete; and for my own part I am at a loss to understand how that searching Parliamentary control can be otherwise exercised than through a responsible Minister. Therefore, I could not accept the suggestion that there is too much of this control.

1761. Of course, it is rather an anomaly that the responsible Minister exercised control, and his control apparently was set aside by the Upper Chamber?—Yes; in one or two small points that has been so.

1762. In fact, it is difficult to say now whose scheme the Merionethshire Scheme is; it is a combination of the Charity Commission, the local Committee, the Education Department, and the House of Lords?—Certainly; but the first two bodies are concerned in all the Welsh Schemes, and the Education Department, by approving, is equally concerned, whether any objection has

Mr. *Griffith-Boscawen*—continued.

arisen or not; therefore, there is nothing singular, with the exception of the Lords' intervention, in the case of the schemes quoted.

1763. Looking at it generally, then, you consider that the system established in Wales is a very good system, by which the local bodies are permitted to make proposals which are to be revised and proposed to Parliament by the Charity Commission?—Yes.

1764. Now, turning to the more general subject of our reference, there being satisfactory Parliamentary control so far as the Endowed Schools side is concerned, is it in your opinion advisable or possible to extend that to the Charitable Trusts side?—No, I think I have already explained that I do not think it advisable even if possible.

1765. On account of the vast amount of judicial work?—Partly on account of the existence of the *quasi*-judicial work, partly on account of the nature of a great portion of the administrative work.

1766. Then, do you think that, speaking generally (of course I know that it is not your particular side), the present constitution of the Charitable Trusts side is satisfactory, or do they appear to you to be in a worse position to deal with their work than you are to deal with yours?—There are points in which I could, if called upon, suggest amendments upon the Charitable Trusts side, but I should not speak with authority upon such points; and comparing the two sides I think that the system on the Charitable Trusts side is perhaps rather better calculated to do its work than the system on my own side.

Mr. *Wickham.*

1767. There was a question asked of you, at No. 1493: "Then the opinion held by the members of the Commission does not coincide with the opinion held in the House of Commons." And you replied to that: "I do not know that there is any opinion in the House of Commons," and so on; may I ask what you understood by the opinion of the House of Commons?—I was speaking of the presumption as to the opinion of the House of Commons in so far as it can be ascertained by us. That we ascertain in the first place from Acts of Parliament; in the second place from resolutions; and in the third place from Reports of debates and the intercourse which we have with members through the unpaid Commissioner.

1768. But then, with regard to that last head, it can only be the opinion of certain members of the House?—Yes, and a previous answer of mine was intended to be understood as including in the subject I was discussing not merely the opinion of the majority, but also the opinions of individual members or sections of members, all of which are important to us, though of course in very different degrees.

23 *May* 1894.

Mr. Daniel Robert Fearon, called in; and Examined.

Chairman.

1769. You are the secretary of the Charity Commission?—I am.

1770. Would you kindly give us some information as to your experience in the public service; when did you enter it?—In 1860.

1771. What was the occupation in which you entered it?—I was appointed an inspector of schools under the Education Department, and I served in that office till 1865.

1772. In 1865 did you receive any other appointment?—I then became Assistant Commissioner to the Schools Inquiry Commission, and I continued in that work until late in the year 1866, when I returned to serve again as an inspector of schools; my duties then including the yearly inspection of a training college in North Wales.

1773. In 1869 did you receive some other appointment?—In 1869 I received from the Home Office a temporary commission to inquire into elementary education in certain great boroughs with a view to Mr. Forster's Elementary Education Act, 1870; but in 1870 before I had quite finished that work I was appointed an Assistant Commissioner to the Endowed Schools Commission, the Commission which had the administration of the Endowed Schools Acts before the administration of those Acts was transferred to the Charity Commission.

1774. How long were you in that position?—Four years, till the termination of the Commission by the Endowed Schools Act, 1874.

1775. In the year 1873 I think you had some special appointment?—I was commissioned by the Treasury, with certain other gentlemen, to inquire into and report upon the organisation of the Education Department in Ireland; but that was while I was acting as an Assistant Commissioner to the Endowed Schools Department of the Charity Commission; I continued to be an Assistant Commissioner to the Endowed Schools Department of the Charity Commission till the year 1886, but after the year 1883 I ceased to travel into the country and hold inquiries; and acted as acting secretary of the Endowed Schools Department of that Commission on the appointment of Mr. Richmond as a Commissioner.

1776. Then, in the year 1886, what happened?—I was appointed secretary to the Charity Commission for the purposes of the Charitable Trusts Acts and the Endowed Schools Acts.

1777. Succeeding whom?—Sir Henry Vane, as secretary, for the purposes of the Charitable Trusts Acts, and Mr. Richmond, with that interval of my acting secretaryship, for the purposes of the Endowed Schools Acts.

1778. Will you just state to us the exact tenure of your appointment?—I am appointed by Warrant under the Royal Sign Manual for the purposes of the Charitable Trusts Act, 1853, and the Endowed Schools Act, 1874, to hold during the pleasure of Her Majesty.

1779. Then you have been in the public services some 34 years?—A little over 34 years.

Chairman—continued.

1780. Now your appointment as secretary to the Charity Commission carries with it also other offices and duties, I think. Will you explain those?—It carries with it the offices and duties of accounting officer for the Parliamentary Vote and Official Trustee of Charity Lands.

1781. In what way are those two offices conferred upon you?—That of accounting officer is conferred upon me by direction of the Treasury, under a Treasury Minute of December 1873, which, in pursuance of the Exchequer and Audit Act, 1886, and an Order in Council of 1873, nominates the secretary of the Charity Commission as accounting officer for the Parliamentary Vote. The office of accounting officer was created in pursuance of that Act and that Minute.

1782. And the position of official trustee of charity lands, in what way is that conferred upon you?—That is by virtue of the Charitable Trusts Acts, 1853 and 1855; the secretary of the Charity Commission, by virtue of his appointment as secretary, becomes official trustee of charity lands, and a corporation sole having perpetual succession to take and hold charity lands.

1783. Therefore, if I may put it so, you embody in your person three capacities: accounting officer, official trustee, and secretary?—That is so.

1784. Now, will you give us some idea of your duties as accounting officer, in the first instance?—The work of that officer is the administration of the Parliamentary Vote for his department, and his duties and responsibilities are defined by a Treasury Minute of the 14th August 1872.

1785. Perhaps you can give us, without dwelling too long on each head, a sort of summary of the heads of your duties as accounting officer?—I am concerned, under, of course, the superior control of the permanent head of my department, the Chief Commissioner, in the preparation of the estimate for the ensuing financial year. I have also to render to the Comptroller and Auditor General a monthly account, being a statement of receipts and expenditure with vouchers for a past month, not necessarily the month immediately preceding, but a month shortly preceding, the rendering of the account. I have also to answer queries upon the accounts, ("Queries" is the official name for them; they are inquiries, but they are called queries) by the Comptroller and Auditor General; to enter into correspondence with him upon those queries, and to make investigations, required for answering his queries, in the office of the staff. I have also to prepare the Appropriation Account, which is submitted to the Parliamentary Committee on Public Accounts with the report of the Comptroller and Auditor General every year. I have also, by myself or by my subordinate, to make all the payments for salaries and other expenditure required in the office. I have to look to the bills of costs of the Commissioners' solicitors before submission of them to the Treasury for

Chairman—continued.

taxation and their payment and charge to our vote; only to see generally that the work for which the charge is given has been duly performed. That, of course, I do not do by my own knowledge of the particulars, but by seeing that they go for examination into the proper legal or other department of the office, and that they are not sent to the Treasury until I have satisfied myself that the responsible person has looked at them. And I will only add that those duties have been increased and complicated lately by the operation of the Charity Inquiries Expenses Act, 1892, under which part of the expense of certain work done by our department has to be reimbursed to the Exchequer by the Councils of counties and county boroughs.

1786. That is a summary of your duties and responsibilities as accounting officer?—It is a summary of my duties. My responsibilities are defined in exact language by the Treasury Minute of the 14th of August 1872.

1787. Now you have given us those seven heads; you used the expression at the commencement of your recital that the Chief Commissioner was the head of your department. Is the Committee to understand that you stand in this matter of accounting officer in a special relation to the Chief Commissioner and not to the Board at large?—I stand in no more special relation to the Chief Commissioner than in every public department every officer of that department stands to the permanent head of his office.

1788. What I rather wished to find out from you was this: is the Chief Commissioner particularly and solely responsible for the supervision, as it were, and control of the accounting officer apart from his colleagues?—No more than as the head of the office.

1789. Now we will pass, if the please, to your duties as official trustee of charity lands; will you describe those to us?—That office is established by the 15th section of the Charitable Trusts Act, 1855, amending Sections 47 and 50 of the Charitable Trusts Act, 1853, and its duties are defined by Sections 48 and 49 of the Charitable Trusts Act, 1853, as amended by Sections 16 and 37 of the Charitable Trusts Act, 1855, and Section 5 of the Charitable Trusts Act, 1887.

1790. Can you give us some idea what those sections mean and what they impose?—I think that the duties of the official trustee of charity lands may be briefly and generally defined as the taking, holding, and conveying such interests in real estate as he is authorised or directed by the Court or an order of the Board to take hold or convey, and as are vested in him either by an order of the Court or the Board, or are conveyed to him in pursuance of an order of the Board.

1791. Can you tell us what arises out of that?—A great deal of detailed work arises out of that, but perhaps it will be sufficient if I give two examples. I could give more if you desire it, but two examples will, perhaps, be sufficient. All the work of the official trustee of charity lands is done in pursuance of orders of the Board, and I will take an example of this work before an order of the Board is passed, and I will take an example after an order of the Board is passed, endeavouring to use as untechnical

Chairman—continued.

language as I can. I will take the case that it is proposed to convey direct to the official trustee in pursuance of the provisions of the Charitable Trusts Act, 1887. In the course of the correspondence which has to lead up to the order of the Board to be made authorising him to take that conveyance, questions arise as to the form of the conveyance, particularly with reference to the necessity of keeping it clear on the face of the deed that he is a bare trustee. Of course it is prefectly true that by the Act of Parliament he is a bare trustee, and that is the only trusteeship that he can execute; but, nevertheless, it is obvious that it is most important to keep that bare trusteeship as clear as possible for legal and practical purposes on the face of the title deed, the instruments. In consequence of that, and with a view ultimately, where necessary, to reference to the Commissioner in charge of the case, and, perhaps, eventually, to the Board itself, the clerks of the upper division in charge of that part of the business of the office have to confer frequently with the official trustee, not only in order to save reference to the Commissioner in matters which may be settled by subordinates, but also because the official trustee is the depository of the experience of all the three legal departments in that matter, and any one legal department which is acting in the matter will, on reference to the official trustee, know what has been done in like matters lately in another department. That, perhaps, will suffice as an example of the work before the order is made.

1792. Quite so; now will you come to the time after an order is made?—We will suppose an order made directing the official trustee, if called upon, if required, to concur in a conveyance, a sale. By the 12th section of the Charitable Trust Act, 1869, his concurrence is not required in order to make the conveyance of a legal estate in charitable property vested in him a valid conveyance, but, nevertheless, for reasons which are perhaps obvious, the solicitors to the purchaser, and the purchaser, almost invariably require it. Now the order of the Board directs him to concur in that conveyance, if required; and it is a well-established, and, I think, a most wholesome, practice in the office that the best evidence, and the only evidence which is to be accepted if it can be obtained, of the desire of the trustees that he should concur, is their own prior execution of the deed. Questions, there fore, frequently arise as to whether that deed is sufficiently executed before the deed is brought with the Order of the Board to the official trustee for his execution; and those questions have to be discussed, in the same way as those I was mentioning just now, between the clerks and the official trustee, when he is asked to execute, or prior to his being asked to execute. Perhaps that will be sufficient on that point.

1793. Now, with respect to sales, have you anything to say to us?—I think what I have said just now is sufficient, if you think fit, on that matter.

1794. Mortgages or redemption of mortgages; do you desire to say anything on that?—No, I do not think so.

1795. New schools?—Questions in the settlement

Chairman—continued.

ment of sites for new schools arise under the Mortmain Acts, but I need not enter into details about that; it is like matter; it is matter in which the Official Trustee is engaged prior to reference, if necessary. to the Commissioner in charge of the case, and ultimately, if necessary, to the Board.

1796. Now, having gone over those two different capacities in which you act, we will turn, if you please, to the more immediate position of secretary, which really, I suppose, comprises the largest portion of your work?—Yes.

1797. Can you classify your duties as secretary at all?—I think that those duties might conveniently, for the purposes of the Committee, be arranged under three headings: First, as responsible to the Chief Commissioner and the Board for the general discipline of the office; secondly, as charged with a definite and particular part of the business of the office; and thirdly, as secretary to the Board and to Commissioners generally.

1798. Now, if you please, let us take the first, as responsible to the Chief Commissioner and the Board for the general discipline of the office; will you go through that?—All matters of discipline in our department, as I imagine in every other Government department, are subject to reference to the permanent head of the department, who is the Chief Commissioner; and it arises, of course, in practice, where you have several other co-ordinate authorities (the other Commissioners, I mean) that certain matters of discipline have to be referred to other individual Commissioners. If, for example, the secretary, as responsible for discipline, had to take notice of anything on the part of a principal clerk, it would, except in a very small trifling matter, which could be dismissed in a few words, be his duty, I apprehend, to communicate with the Commissioner with whom that principal clerk worked, so as to be sure that his intervention with the conduct of the principal clerk was approved by the Commissioner with whom that principal clerk worked. And the like observations would apply to the case of the parallel officer, an Assistant Commissioner; if he was an Assistant Commissioner in the Department for the administration of the Endowed Schools Acts it would be the duty of the secretary, if he had any important observations to make upon the conduct of the Assistant Commissioner, to confer with the Commissioner to whom that Assistant Commissioner was particularly attached. And that of course also goes through the rest of the office. Heads of departments and Staff Officers have to be communicated with by the secretary or one of the assistant secretaries to whom that part of the business may be delegated by the secretary, in case of complaint arising or fault to be found with their subordinate officers.

1799. Now let us turn to the second head of your duties: As charged with a definite and particular part of the business of the office; will you explain what it is?—May I, before I pass from the first head, make one observation?

1800. Certainly?—It should be understood that there are two assistant secretaries, and that

Chairman—continued.

a considerable part of this work that I have mentioned as the secretary's work in regard to discipline is delegated by definite written instructions from the secretary to the assistant secretaries, when he is present or absent from the office.

1801. I suppose by the word "discipline" you merely mean that it lies with the secretary to see that the machine is smoothly and swiftly running?—Yes.

1802. If such a word as "swiftly" is applicable?—I hope it is applicable, and it is the intention of the secretary that it shall be.

1803. Now will you pass to the second head?—The second head that I mentioned is: as charged with a particular part of the business of the office.

1804. You mean by that the Secretary's Department?—The Secretary's department. He has the correspondence to conduct in regard to a number of matters, the correspondence about which is not conducted in the legal or other departments of the office. There is a great quantity of business in every Government department, which is not directly concerned with administration or control; and I think there is an especial quantity of business in our department which is not directly concerned with the administration or control of local or general charities. There is the correspondence with other Government departments; there is correspondence with foreign countries.

1805. Will you explain briefly how that arises?—We have numerous and frequent references from foreign countries as to the law of charitable trusts in this country, and as to the organisation for their administration. We have had a great deal of correspondence of late years with Italy, where they have been endeavouring to organise, and after some years of Parliamentary work have succeeded to a considerable extent in organising, their charities.

1806. The correspondence arises then by way of inquiry, not of jurisdiction?—No, by way of inquiry.

1807. Will you proceed. You are giving us now some heads under which the business is transacted?—Yes. At the present moment there are 141 separate heads of this business in personal charge of the secretary, but I have classified the nature of the business under certain headings. If you will allow me to read them, perhaps that will show you what it is.

1808. Yes?—This is the classification: Business with the Attorney-General; business of the accounting officer; various bodies and societies, not being charities; Civil Service regulations; establishment of the office; Estimates and Appropriation Accounts; the Expiring Laws Continuance Acts; correspondence with foreign countries; correspondence with the Charity Commissioners and the Education Commissioners in Ireland; correspondence with Government departments; business relating to legislation and new Acts of Parliament; Parliamentary Returns and Questions in Parliament; reports of the Commissioners to the Queen; reports to the Education Department under the Endowed Schools Acts; Royal Commissions;

 correspondence

Chairman—continued.

correspondence relating to endowments in the Channel Islands and other parts of the British Empire not under the jurisdiction of the Charity Commission; business relating to Select Committees of the House of Commons; superannuation; Treasury correspondence; and the Universities of Oxford and Cambridge. That is the classification.

1809. That gives an indication of the business which passes through your hands?—Yes, all that business is in my hands personally. I do not, except when I am absent from the office, delegate any of it to either of the assistant secretaries, and I work it all under the more or less immediate direction of the Chief Commissioner, as the permanent head of the Department.

1810. Will you kindly go on with the mention of any other business?—There is a great deal of business with regard to candidates for appointments in the office, which perhaps I need not enter into now. Then there is the part which falls to the secretary in regard to the yearly report to the Queen; and there is a certain part, though a smaller part, of the business relating to the work of the Parliamentary Commissioner.

1811. Now, will you amplify that a little, please, giving us a little more in detail what you mean by that, as to what arises from the appointment of the Parliamentary Commissioner, so far as you are concerned, I mean?—So far as the knowledge and work of the secretary is concerned, his relations with the Parliamentary Commissioner are twofold; first, in regard to questions asked in the House of Commons. When a question appears on the Parliamentary votes, which are received in our Department in the morning, it is the business of the secretary, either directly or indirectly, to see that the notice of the Department in the office to which that question particularly relates is called to the question; and when the Parliamentary Commissioner has given the answer which he thinks fit to give in the House, it is the business of the secretary to see that a record of that answer is duly placed in the file to which the matter belongs.

1812. Will you kindly explain to us precisely how the answer to be given by the Parliamentary Commissioner reaches his hands; how it is prepared and how it reaches his hands?—In the first instance, the Parliamentary Commissioner desires to have a suggestion from the office of the nature of the answer which he shall give, having regard to the detail of the work, the knowledge of which is required in the answer. For that purpose, if the question is one which relates to a local charity or a general charity, the question is referred to the department to which, according to the geographical organisation of the work in the office, the business relates.

1813. We shall come to the geographical organisation afterwards?—If you please. When the first proposal, or rough draft, for an answer to be placed in the hands of the Parliamentary Commissioner is made by the department concerned, it is considered by the Chief Commissioner, as head of the Office, and responsible for every answer given in Parliament with regard to our work, and is then forwarded to the Parliamentary Commissioner, who gives

Chairman—continued.

the answer, if he thinks fit; in that form, or in any other form which appears to him, having regard to the desire of the House and the circumstances of the moment, to be proper to give, either by modifying the answer, or by adding to it.

1814. Then we may take it really from you as secretary, that the answers to questions in the House of Commons, addressed to the Charity Commission, as they leave your department in Whitehall are in a form that is approved by the Chief Charity Commissioner?—Certainly, if he is at the office. Of course he may sometimes be absent; but, if he is at the office, certainly.

1815. Then, after the answer comes into the hands of the Parliamentary Commissioner, it lies with him to add to, or to subtract from, or in any way modify the form of that answer when it is given in the House of Commons?—Certainly, on his own responsibility.

1816. I was going to add, he does that entirely on his own responsibility as a Charity Commissioner?—Certainly.

1817. I interrupted you; will you proceed with what you were saying?—I have explained that the department in charge of the particular charity, local or general, would draw these answers. There are some answers which, not relating to a particular charity, or relating particularly to business in the immediate and special charge of the secretary, have to be drawn by the secretary; but in any case, whether drawn by one of the administrative departments or by the secretary, the answers are passed through the hands of the Chief Commissioner as head of the Office, and are approved by him before being sent to the Parliamentary Commissioner.

1818. Then, when the answer has been given in the House of Commons, what does the Secretary of the Charity Commission do?—He receives from the Parliamentary Commissioner a copy of the answer, altered or unaltered, as given by him, and sees that it goes to the proper place for preservation among the records of the office.

1819. It goes then into the archives of the office?—It does.

1820. Have you anything further to say upon the subject of Questions?—I think not.

1821. You said that the matter of Questions was the first part that arose: you said there was something else?—Returns.

1822. Perhaps you will explain that; Returns moved for in the House of Commons you were speaking of?—Or in the House of Lords.

1823. But the Returns moved for in the House of Lords would not affect the Parliamentary Commission?—No.

1824. We are on the subject now of the Parliamentary Commissioner, please?—The Parliamentary Commissioner would not be more concerned with the question of a Return than any other Commissioner, except so far as he is a means of touch with the House.

1825. Do you wish to say anything to us, quite apart from the Parliamentary Commissioner, on the subject of Returns?—No. Those Returns, as the Committee will be aware, have increased in number and volume of late years, and probably I may

Chairman—continued.

I may have an opportunity of saying something more on that subject when I come to our statistical department.

1826. Does that include all that you wish to say to us with regard to the second head of your duties, as charges with a particular part of the business of the office?—I think that gives the main answer.

1827. Now let us pass, if you please, to your duties as secretary to the Board and to the Commissioners generally; will you give us, in the first place, some information as to how the office is arranged?—The office is arranged in the following departments: The A Department, that is a legal and administrative department, under the direction of the Chief Commissioner, an Assistant Commissioner, a principal clerk, two clerks of the upper division and two of the second division; the B Department, a legal and administrative department under the direction of the Second Commissioner, an Assistant Commissioner, a principal clerk, three clerks of the upper division and two of the second division; the C Department, a legal and administrative department, under the immediate direction of the Third Commissioner, an Assistant Commissioner, a principal clerk, three clerks of the upper division and two of the second division.

1828. What does Division A include?—The County of London, and the Counties of Middlesex, Hertford, Essex, Kent, Surrey, and Sussex.

1829. That is under the Chief Commissioner?—That is under the direction of the Chief Commissioner.

1830. Now B?—The B Department is North and South Wales, the counties of Shropshire, Hereford, and Monmouth for other purposes than those of the Welsh Intermediate Education Act (for which purposes it is in Wales), Stafford, Worcester, Warwick, Gloucester, Oxford, Buckingham, Bedford, Berkshire, Hampshire (including the Isle of Wight), Wilts, Dorset, Somerset, Devon, and Cornwall.

1831. Under whom?—The Second Commissioner, Mr. Alderson.

1832. The C Department?—The C Department has the counties of Northumberland, Cumberland, Durham, Westmoreland, York (all the Ridings), Lancaster, Chester, Derby, Nottingham, Lincoln, Leicester, Rutland, Northampton, Huntingdon, Cambridge, Norfolk, and Suffolk.

1833. Under whom?—The Third Commissioner, Mr. Hope.

1834. Those are the three Commissioners dealing specifically with charitable trusts?—Yes.

1835. Will you now give us the Department D; what happens there?—D is the drafting department, in which all the schemes and most of the orders of the Board, and all those notices which have serious legal importance, are drafted. Orders to that department and directions to draft are, of course, given by all the five Commissioners; and, subject to them, it is under the direction of an Assistant Commissioner, three clerks of the upper division, and one of the second division.

1836. Now the next department?—The next department is the department for the administration of the Endowed Schools Acts.

Chairman—continued.

1837. We now pass to the endowed schools side, if I may use the term?—Yes, the side which administers the Endowed Schools Acts. The other three departments administer, in some respects in a more important manner than the Endowed Schools Department, Endowed Schools; but that is the department for the administration of the Endowed Schools Acts. That is the E Department. The division is shown by that black line (*pointing to a map*); there is a northern district and a southern district; all that is to the north of this black line is the northern district, and all that is to the south of it is the southern district.

1838. Will you give us the counties which the line divides?—Yes. Perhaps I may just state first that it is under the direction of two Commissioners;

1839. Their names being?—Sir George Young and Mr. Richmond; the secretary, and an assistant secretary. I had entered also on my notes a clerk of the second division, but within the last two or three days another clerk has been added; two clerks, therefore, it is now of the second division. And that forms the staff for the separate purpose of that department; but the department has, of course, the use of the general copying staff of the office.

1840. If the Endowed Schools Acts were not kept alive by the Expiring Laws Continuance Act, that is the department that would fall to the ground; is that so?—Yes.

1841. Now, will you give us the geographical division?—The northern district, Sir George Young's, contains North and South Wales, Monmouthshire, and the following English counties: Northumberland, Cumberland, Westmoreland, Durham, York (all the Ridings), Lancaster, Chester, Stafford, Shropshire, Worcester, Hereford, and Gloucester; and the southern district contains the County of London and the rest of the English counties.

1842. Is that all that you desire to say on the Department E?—That is the staff of the E Department.

1843. Now next?—I omitted to mention the Assistant Commissioners in the E Department. Besides the two Commissioners there are five Assistant Commissioners.

1844. Now will you pass to G?—G is the Department of Statistics and of Accounts of Trustees of Charities; the department in which the greater part of the statistics of the office are prepared, and which is concerned with the obtaining and registration of the accounts of Trustees of Charities. Under the general direction of the Chief Commissioner and the secretary that department has this staff: an officer of the rank of principal clerk, who is also the principal Official Trustee of charitable funds, to whose work and duties I shall come presently; one clerk of the upper division, who is also the sub-accounting officer to the accounting officer for the Parliamentary Vote; three clerks of the second division, one assistant clerk, and the subordinate staff.

1845. The next department?—The next division is called O; it is the Department of the Official Trustees of Charitable Funds.

Chairman—continued.

1846. Can you give us an idea (I do not know that we have had it) of the amount of funds which stand invested?—Over sixteen millions; it may be described as the great banking department of the office, if I may use the phrase, and it is the department in which the greatest increase of work, within my experience as secretary, has taken place. Though all the departments have had a considerable increase of work, that department, I believe, is the one in which the greatest increase has taken place.

1847. What is the staff?—Directions, of course, are given to the department of Official Trustees by all the three permanent Commissioners with regard to the charities in their respective departments; but, subject to them and to the secretary, the department is administered by a principal clerk and two assistant secretaries, as the Official Trustees of charitable funds, by an accountant who is a most experienced officer, an assistant accountant, eight clerks of the second division, and three assistant clerks. I, perhaps, might mention that I omit, in all this, boy clerks, writers, copyists, &c.

1848. You have used the expression "banking department," it would rather assist us if you could mention the total number of accounts in that department?—It is stated in the 41st Report to the Queen, paragraph 4: "The total sum of stocks and investments held by the Official Trustees of charitable funds on 31st December 1893, amounted to 16,781,948*l.* 19*s.* 2*d.*, divided into 17,345 separate accounts."

1849. How often do transactions occur in each of those accounts?—I cannot answer that; it would be a matter of elaborate investigation; it could be given if desired.

1850. You have not it in your mind?—No.

1851. Is that all you desire to say with regard to that department?—I should be very glad, with the kind permission of the Committee, to say at some period something on the services of the accountant, the head of the department.

1852. You had better go on with whatever you desire to say now on that department?—This, I think, I am justified in saying, that by my predecessor, Sir Henry Vane, acting under the Commissioners, and by the accountant in the Official Trustees' Department, this department has been most admirably organised; and not only has it been admirably organised, but it is an extremely hard worked department. All the departments in the office, to my personal knowledge and observation, are now becoming overburdened and severely pressed, and, I think, I may say that the pressure upon this department is perhaps the most severe. The amount of work and responsibility thrown upon the accountant and assistant accountant of this department has of late been considerably increased by reason of the following amongst other circumstances: first, by the provisions of the Treasury regulations of the 27th March 1889, regulations made by the Treasury in pursuance of the Charitable Trusts Act, 1887, for the conduct of the business in the Official Trustees' Department; secondly, by the establishment by the Treasury of an independent audit of the accounts of the Official Trustees of charitable funds; thirdly, by the operation of the National Debt Conversion Act, 1888, which

Chairman—continued.

provided for quarterly payments of dividends in place of half-yearly payments; fourthly, by the numerous sales, in consequence of the same Act, of consols standing in the names of the Official Trustees of charitable funds, and their re-investment in other securities; and, fifthly, I may mention the increase in the sums of stocks, and the consequent increase in the number of separate accounts of the stocks, standing in the name of the Official Trustees, and the resulting increase of the volume of business in the department. In 1875 the Treasury Officers of Accounts presented to the Treasury a Report, on the conduct of business in this department, to which perhaps it would not be proper that I should allude further than to say that in that Report testimony was borne to the excellent organisation and arrangement of its business and to the very efficient and economical manner in which that department appeared to the Treasury Officers of Accounts to be conducted.

1853. You have alluded to the increase in the volume of business leading to what you have termed pressure upon this department?—Yes.

1854. Can you bring that rather more home to us by any illustrative figures over say 20 years of the increase in the number of accounts and in the funds, so as to relieve us and those who read our Report from the necessity of going through the Reports of the Commission *seriatim;* can you give us a table?—I should be very happy to put in a table on that subject later.

1855. I think your expression "increase in the volume of business" and "pressure" should be supported by some such table?—I shall be happy to do that, but I should ask the Committee and you kindly to understand that this is not the only department under severe pressure and burden of business, and perhaps you might desire the statistics on the pressure of business and volume of business to extend beyond that department. Would you think fit to call upon me to put anything in showing that?

1856. I will confer with you when we have gone through your heads?—If you please.

1857. Then a further question in regard to this department. Do I rightly understand that it is regulated by a Treasury Minute to a certain extent?—Yes.

1858. Is that Treasury Minute in one of the Reports of the Commissioners?—Yes; in the Appendix B to the 37th Report of the Commissioners to the Queen.

1859. Will you now go on to the Department R, what is that?—That is the department of registration of all letters and documents. It is the department into which all letters come which reach the office, and from which all letters issue that leave the office. That is the department which is perhaps most of all, except the secretary's department, immediately under the direction of the secretary; and, subject to his direction, it is administered by one clerk of the upper division, two of the second division, three assistant clerks, and, it will be understood, the staff of boy clerks and copyists.

1860. That is the department of the archives, perhaps you might call it?—The archives are kept in that department, but it is a registration department;

Chairman—continued.

department; it is the department of the registration of the letters, and all the other business of the office.

1861. And then there is the Secretary's Department, pure and simple, with which you have already dealt?—Yes.

1862. Is there any other department?—Yes; there is one more department, a very important one, called the W department. That is the department of new and unrecorded charities; the department which is concerned with duly recording any newly created charity which is subject to the Charitable Trusts Acts, and any old charity which has hitherto escaped being recorded.

1863. It is the department also of recovered charities, I suppose?—No; a recovered charity only means that, there being established a charity, the due application of its income, or corpus, has ceased for a time, and is renewed.

1864. I may have used the wrong term; what I want to arrive at is this: does it include charities which are recovered in the ordinary sense of the word, which had escaped notice and have been found again?—In that sense it does.

1865. Is that all you desire to say upon that?—I should like to mention that it is the organisation of this department which is gradually diminishing the number of charities which are created and escape the notice of the Charity Commissioners, and which I have every reason to believe will before long make it practically impossible, almost impossible, that a charity subject to the jurisdiction of the Charity Commissioners shall be created without their knowing of its existence. The great, the main, reason of the existence of old charities without being known to the Commissioners is the interval which took place between the time of Lord Brougham's Commission of inquiry into charitable uses and the creation of the Charity Commission in 1853; that is to say, the interval between 1837 and 1853; though there are other causes which led to the existence of old charities not being known; but one of the principal features of this W department is an arrangement by which it is now almost impossible for a charity to be created, either by will or deed, without the Charity Commissioners knowing of it: and perhaps it might interest the Committee to hear in a few words what that arrangement is.

1866. Certainly?—We have an agreement with the Rolls Office to send us at stated periods a list of every deed enrolled appearing to create a settlement for charitable uses.

1867. Is that a voluntary agreement?—Yes; it is an agreement that the comity of public departments has caused.

1868. It is not statutory in any way?—No.

1869. It might cease at any moment?—So far as any statutory enactment is required. But it will not cease. We have a similar arrangement with the Probate Office at Somerset House, by which a monthly list is sent to us of every will which appears on the face of it, *primâ facie*, to contain a bequest or devise to charitable uses.

1870. That, again, is an inter-departmental voluntary agreement?—That, again, is a voluntary agreement.

Chairman—continued.

1871. Might I put this to you: Supposing that either at Somerset House or at the Charity Commission, on the one hand, the officials, and, on the other, the Board, entertained the idea that this was no longer useful or desirable, it might cease?—It might cease for a very short time; but very soon there would be a question in Parliament, or elsewhere, which would put those who had allowed it to cease to their explanation.

1872. I was coming to that; that does rest upon a voluntary agreement?—It does.

1873. But, in your opinion, public watchfulness, acting through Parliament, would necessitate its being continued?—That, or some similar arrangement; I think so.

Sir *Andrew Scoble.*

1874. Were these arrangements originated by the Charity Commissioners, or were they originated either by the Court of Chancery or the Probate Office?—They were originated by the Charity Commissioners.

Chairman.

1875. It springs from your department entirely?—Yes.

Mr. *J. W. Lowther.*

1876. When were they made?—They have grown up gradually. They began some years ago, but have been very much perfected and improved in the last eight or ten years. Perhaps you would like me just to explain what action we take upon this list of wills?

Chairman.

1877. I think you had better complete your account?—This receipt of the list of wills is not a mere formality; the list is not put away. What we do is this. We have a legal clerk, a clerk having some knowledge of legal matters, in this department, and he has an assistant, and they go at stated intervals to the Probate Office, when all these wills of which a list has been sent are produced to them, and they look at them, and they take by means of shorthand and dictation a sufficient extract from every one that appears on the face of it to contain a valid devise or bequest to charitable uses. If they doubt whether it is a good devise or bequest to charitable uses they come back to the office and refer the matter to the Commissioners; and, subject to their direction, they take a sufficient extract upon which to base the communications which forthwith take place with the executors or beneficiaries of the gift.

1878. Have you in any case had this action resented by anybody?—Yes. All action on the part of a central department is liable to resentment, as far as my experience goes, because of the dislike which Englishmen have, as a feature in the national character, of being overhauled, particularly those who are acting in voluntary work like trustees or executors; but, on the whole, my experience is that executors and trustees are very ready to co-operate with the Commissioners, and frequently very thankful for the advice and assistance the Commissioners

Chairman—continued.

can give them in the discharge of their responsibilities, and in relief of their liabilities.

1879. And may we take it from you, speaking with full knowledge and responsibility, that you consider these arrangements have been to the public advantage?—Very greatly to the public advantage.

1880. Do you wish to add anything on this subject?—No.

1881. You have now gone through the several departments under which the office is organised; now will you give us a summary of the total strength of the Charity Commission in its various grades?—The total strength of the office consists of six Commissioners, including the Parliamentary Commissioner, who is unpaid; one Secretary; two Assistant Secretaries, who are also, as I have mentioned, Assistant Commissioners, and Official Trustees of Charitable Funds; eight Assistant Commissioners, besides one temporarily employed for three years, and five others temporarily employed under the Charity Inquiries Expenses Act.

1882. When you use the word "temporary," do you mean that their services terminate at a particular date?—At a date which can be ascertained.

1883. A specified date?—Yes, a specified date. With regard to the temporary Assistant Commissioner for three years, as at present arranged his services terminate at the end of that period, The services of the temporary Assistant Commissioners employed under the Charity Inquiries Expenses Act, subject to an estimate which we have furnished to the Treasury and the county councils of the time which will be employed for the work, will terminate when the work is done.

1884. That is an indefinite period "when the work is done"?—Well, it is a period of which the margin of deviation is not very large.

1885. What I rather mean is: Are these gentlemen engaged up to a particular date?—Every one of these temporary Assistant Commissioners, for the purposes of the Charity Inquiries Expenses Act, holds at the pleasure of the Board; he can be removed at any moment at the pleasure of the Board; they are not engaged for a term.

Mr. *J. W. Lowther.*

1886. What is the work upon which the Assistant Commissioner appointed for three years is engaged?—He is the Assistant Commissioner to the Chief Commissioner in the A department.

1887. In general work?—Assisting the Chief Commissioner in the legal and administrative work of charities localised in the A department and general charities. He is now working in the B department.

Chairman.

1888. He is moveable?—Yes; the Assistant Commissioner who was in B is now working in A, and the temporary Assistant Commissioner appointed for three years, who was in A, is now working in B.

1889. Now pass to the clerks, if you please?

Chairman—continued.

—There are four principal clerks, one in A department, one in B, one in C, and one having control of G and O, and being the Chief Official Trustee of Charitable Funds. There are two accountants, 15 clerks of the Upper Division, 27 clerks of the Second Division, seven assistant clerks, a varying number of boy clerks and copyists, and the usual staff of messengers.

1890. That is the staff of the Public Department known as the Charity Commission?—That is so.

1891. Now let us turn, if you please, to your duties as secretary to the Commissioners generally; perhaps you will give us with fair brevity your duties as secretary to the Commissioners generally?—You will understand, of course, that it is almost impossible to give an exhaustive account of any such work.

1892. Classify it, if you please?—I must endeavour to classify it, and, at all events, to touch upon the principal points. The first thing that I would mention is, letters which come into the office. I do not see all the letters that come into the office on their arrival; that would be an impossibility; by which I mean that it would occupy so much of my time as to seriously interfere with other, and, perhaps, more important, business; but I conceive it to be of the utmost importance that incoming letters should be under the general control of the Secretary, and that he should take such steps as shall enable him to keep his hand upon the whole of the correspondence that comes in; and the mode by which I endeavour to do that is this: I give a written direction to the head of R department that certain classes of incoming letters are to be brought to me. I vary that direction from time to time, as matters which arise show me that it should be varied. For example, I gave a written direction to the head of that department some time ago, that the following letters were to be brought to me amongst others (I will not give the whole of it, but a part): All letters from any Government Department; all letters requesting attention to previous correspondence, and stating that the correspondent had not understood what had been written to him; all letters making complaints as to the administration of any charity.

1893. That would be, of course, after they are opened and read?—Yes; after they are opened, and have been so far read by the head of R department as to enable him to judge whether they come within any of these categories, and to which department they should be distributed.

1894. That is by a clerk of the upper division?—It is. I have added to that, subsequently, any letter from a County Council; and any letter in the matter of the Welsh Intermediate Act, 1889. In short, as my attention is directed, by means of the correspondence in the office, or of anything that happens in the office, or by one of the Commissioners speaking to me, to any matter which I think requires special looking into in the office, I add to my instructions to the Registration department some new category of letters which are to be brought to me; and by that means, and by varying that list from time to time, I endeavour, while not occupying myself with

Chairman—continued.

with a mass of letters, which perhaps it is wholly unnecessary I should see, to keep a general control over the letters that come into the office, in regard to having attention paid to them; not a control in the sense of answering them or dealing with them, because that, of course, is for the Commissioners; but in the sense of knowing what is going on.

1895. Is there a further sorting, if I may use the expression, when they come to you, before they fall under your eye, by your confidential clerk?—No, they come straight to me from the R department. If, then, there is anything special in these letters to which I conceive it to be my duty to call the attention of the Commissioner in charge of that division, I do so; and further, if necessary, I call the attention of the Chief Commissioner as the head of the office; and that I conceive to be my main business and duty with reference to incoming letters.

1896. Now with regard to outgoing letters?—The principal business that the secretary has to do with in regard to outgoing letters is to see that they are duly authorised; that no letter leaves the office without due authority. In all cases, as regards letters which are sent from the legal and administrative departments, those letters require, at least, the authority of a principal clerk. I do not myself see directly the mass of the outgoing letters; they go to the assistant secretaries; but they have minute detailed directions from me as to reporting to me immediately upon any letter which is brought to them for signature which appears not to be duly authorised.

1897. What do you mean exactly by "appears not to be duly authorised"?—Supposing that a letter comes down to the senior assistant secretary for signature, it would be a copy of a draft for his signature; it is his duty to see that he has the draft before him at the same time that he has the copy; he must see that that draft has, in any case, if it is in one of the legal and administrative departments, the initials of the principal clerk; and, if the letter is a letter which commits the Commissioners to make an order or to do any serious administrative act, he must see that it is authorised by the Commissioners.

1898. Have you ever had an instance of an unauthorised letter passing out?—Yes; it is in consequence of that having happened in times past, amongst other things, that this regulation is now established.

1899. When you say "in times past," do you mean anterior to your own position as secretary?—Yes.

1900. In your day, as secretary, there has never been an unauthorised letter sent out?—I would not say that that has not happened; but, if it has, it has been a mistake; it has been intended that it should not happen.

1901. Do you wish to say anything more on that subject?—Yes, I think I should say this: that there are two degrees, in practice in the secretariat, of authorisation by Commissioners; one is a general authorisation of the letter not involving the initials of the Commissioner, and the other is the initialling of the draft letter by the

Chairman—continued.

Commissioner, in which case the Commissioner is himself, of course, responsible for every word of it; and it is the business of the assistant secretary to bring to me every letter which appears to him to be insufficiently authorised. Sometimes I say that I am satisfied with the authority, and that it may go on; sometimes I say that I am not satisfied; in that case I refer it back to the department for due authority. Then, lastly, if there is anything very special on one of these letters, it may be my duty to go to the Commissioner of the district, speak to him about it, ask him whether he has considered so and so, and possibly, though very rarely, to ask him to speak to the Chief Commissioner about it.

1902. Do you consider that the regulations and arrangements are such now as that the end is secured, namely, the due authorisation of all letters?—I think so; and I think I may give this as a proof of it: before I was secretary it sometimes happened that a letter had gone out, and afterwards the matter which formed the subject of that letter had to be brought to the Board, and the Board, upon deliberation and consideration, was unable to support the course taken in that letter. In consequence of that happening, it was the desire of the Commissioners that I should take some such course as this; and I think, subject to human fallibility and liability to error, that the Commissioners would probably support me in stating that that has practically cured it.

1903. Passing from letters, I suppose you have to watch and correct if necessary any irregularities of procedure in the office?—Certainly.

1904. Will you give us a little more idea what is meant by that phrase?—There are matters in which the rules of the office require a reference to the Board. If, by any mistake, a letter should be prepared for issue, or a step in procedure proposed to be taken which ought to have been referred to the Board, it would be my duty, as rembrancer to the Board and the Commissioners, to call attention to that; if it is the work of a clerk, to speak to him about it, and desire him to bring it before his Commissioner; if it is the work of a Commissioner, to see the Commissioner. There are certain rules of the office that certain matters shall not be dealt with, either under the Charitable Trusts Acts, or under the Endowed Schools Acts, without being brought to the Board. Under the Charitable Trusts Acts, as I think has been already pointed out to the Committee, the rules for procedure requiring reference to the Board are extremely few; they are more numerous, as I think has been pointed out, under the Endowed Schools Acts; but, in either case, it is the business of the secretary to call attention to what appears to him, subject to the rules of the Commissioners, or of the Chief Commissioner, to be an irregularity of procedure; and that, of course, is a part of the secretary's work which cannot be delegated, and is among the most anxious and delicate of his duties.

1905. Then of course it is part of your duty to see that a uniform practice is maintained?—Yes; in the administration of the Charitable Trusts Acts, for example, where, as I have mentioned, there are fewer rules requiring reference to the than

Chairman—continued.

Board than in the administration of the Endowed Schools Acts, it may be that, in A department for example, a practice has been introduced not of very great importance, because everything of great importance would be discussed among the Commissioners and settled by them directly, but a matter of some importance, and at any rate a matter in which it is very undesirable to have variety of practice in the three legal departments. In a case like that it is the business of the secretary to see the clerk or principal clerk in the department from which it is proposed that a letter should go, which differs in its general mode of treating a matter from a practice established by another department, to speak to him about it, and to ask him to confer with the Commissioner on the matter; in which case the general result would be that the Commissioner would see his colleagues, and they would come to a conclusion whether there is really any divergence of practice, or whether it is a matter which the secretary need not trouble them about.

1906. I suppose, without regard to the personnel of the office, there must in the ordinary run of things be some danger of diverging procedure where you have five persons acting as co-ordinate authorities, and the head so to speak only as we have been told *primus inter pares*, than where you have ministerial responsibility centred in one man?—There must be more necessity for keeping harmony of procedure where there are five co-ordinate authorities, no doubt, than where there is a vertical organisation.

1907. Without regard in the slightest degree to the personal element?—Certainly.

1908. Then, have you anything to say to us on the organisation of the office in regard to cases where changes are made?—Alterations in the staff or the mode of procedure in the office would be referred by the secretary to the Chief Commissioner even in cases where the proposal to make any such alteration had not originated with the Chief Commissioner or one of the Commissioners. All alterations in the procedure of the office and in the staff, such as moving a clerk of one division from one department to another and so forth, would be referred to the Chief Commissioner. If the secretary wishes to make a change he must satisfy the Chief Commissioner that what is proposed is necessary or desirable, and the Chief Commissioner in some cases would consult with the other Commissioners at the board or individually; and, generally, I think it might be taken that no considerable change in the procedure of the office would be made unless the whole body of the Commissioners were practically in favour of it, or not strongly objecting to it.

1909. Then what power do you consider you have of delegating your work?—I can only delegate my work to one of the two assistant secretaries, and that with the sanction of the Chief Commissioner and the Commissioners generally. For example, as the rules now stand, if the two assistant secretaries are away for any reason, I cannot leave the office; the secretary or one of the assistant secretaries must be present at the office every day that it is open; and if for any reason one of the assistant secretaries is taking

Chairman—continued.

his vacation and the other should be ill, I must do the whole of the secretarial work of the office; I cannot delegate the signing of letters to any other person as the rules now stand.

1910. On that point of letters, will you tell me how a letter going out of your department conveying the decision of the board is signed; by whom is it signed?—By the secretary or one of the assistant secretaries.

1911. Then a letter, on the other hand, going out from an individual department, say, from the Chief Commissioner's or from Mr. Richmond's, how would that be signed?—An official letter would be signed by the secretary, or one of the assistant secretaries, if it has come before the Commissioners. There are certain, but very few, letters, I think I may say, in the E Department which go out on the authority of an assistant Commissioner only; but the general rule is that official letters, excluding that is to say letters written of a semi-official or private nature by a Commissioner, go through the hands of the secretary, or one of the assistant secretaries, and are signed by them.

1912. Then, may I take it that the official letters are signed not by the Commissioners, but by the secretary or assistant secretaries?—Certainly not by the Commissioners.

1913. Is that all that you desire to say about your work as secretary of the Commission generally?—I would only add that I did not trouble you with it, but a similar direction as to the classes of outgoing letters which have to be brought for me to see is given with regard to the R department, as I have explained with regard to the incoming letters.

1914. Now I pass to the way in which the Board works generally, and your association with it as secretary. In the first place, when does the Board meet?—It meets always twice a week.

1915. Are the meetings summoned in any way?—No; they are held under regulations made by the Board. For example, the ordinary days of meeting of our Board are Tuesdays and Fridays; but the Board made a minute, on the constitution of this Select Committee of the House, that the Friday meeting should be held on Thursday, for the convenience of this Committee, and that is done. That illustrates what I make as a general statement that the meetings of the Board are held at times and hours fixed by minutes of the Board; but I believe I am correct in stating that the Board has never, except at times when the office was closed, ceased to meet at least twice a week for the dispatch of business; and, within my own personal knowledge, when there has been a heavy pressure of serious and important business, it has met three or four times a week.

1916. What is the average duration of a meeting?—I have not taken that out; but, meeting as it does now at half past 11 in the morning, it seldom rises much before 2 o'clock; two hours and a half is the ordinary time now taken for morning meetings.

1917. Twice a week?—Twice a week.

1918. I think I rather understood that no summons or written notice is sent out to each member?—No.

1919. Is

Chairman—continued.

1919. Is there any agenda sent out of the business coming before the Board?—The secretary is furnished by each Commissioner before the Board meets with an outline of the business which the Commissioner intends to bring before the Board, the name of the case.

1920. Then assuming that all the Commissioners are present, it may be that individually each will only have known of the business that he is about to bring before the Board before he comes there?—As a rule. Sometimes, in the case of serious business, the Chief Commissioner speaks to the other Commissioners, and mentions that such and such a matter is coming before the Board, or another Commissioner will speak to the Chief Commissioner and his colleagues, and mention that such and such a matter is coming before the Board; but the general rule is that each Commissioner only knows what is going to be brought by him before the Board.

1921. At all events, you, as secretary, do not convey officially any agenda to the members before they come to the Board?—No.

1922. You keep minutes, of course?—Careful minutes are kept in accordance with the requirements of the Act. The Charitable Trusts Act, 1853, Section 8, requires the Commissioners to keep minutes.

1923. Have you one of your minute books with you?—Yes, I have here the current minute book which begins with the 6th June 1893.

1924. About a year ago?—Yes, nearly a year ago.

1925. Perhaps you could take one meeting and illustrate to the Committee the kind of business that turns up?—I have opened the minute book at that first day.

1926. Is the business transacted in any particular order at the Board meeting; does any particular business come first?—Yes.

1927. Perhaps you will mention what it is?—The first thing is that the secretary reads the minutes of the last preceding Board, and if the Commissioners approve them the Chief Commissioner or other Commissioner in the chair initials them, and the secretary signs them as the approved minutes of the last preceding Board. After that business is done, the ordinary legal orders and orders in the department of the Official Trustees of Charitable Funds are read out by the secretary and passed by the Board; and that business is the business which is first entered here in the minutes of this 6th June 1893.

1928. Is not that more or less (and perhaps more rather than less) formal proceeding?—It is formal proceeding.

1929. It does not give rise to much discussion?—No.

1930. It is administrative, purely ministerial?—These orders have been duly settled by the Commissioner in charge of the district or division, and they come in printed proof or manuscript initialed by the Commissioner; the secretary or the assistant secretary attending the Board reads the purport of the order, which is expressed in a shoulder note, and he reads also certain outlines of particulars from the order, such as that so much stock is to be sold to produce a certain sum and so forth; and, unless he finds something

Chairman—continued.

informal on the order, such as that it is not duly initialed by a Commissioner or something of that kind, and calls the attention of the Board to it, or unless the Commissioner whose order it is desires to make some observation to the Board upon it, which he does sometimes, it is a formal matter, it is passed, and the passing of it imports that the Board directs its official seal to be placed upon it, from which time it is operative.

1931. What is the next description of business?—After that the Commissioners proceed to the deliberation and discussion of matters which require the consideration of the Board.

1932. And that general deliberation and discussion is entered upon as you say without any previous knowledge of the actual subjects coming up?—The Commissioner in charge of the case knows what is to be discussed minutely, and the secretary knows as a rule the name and title of the case.

1933. The other Commissioners have had no written or printed document before them previously conveying to their minds what is coming up?—No.

Sir *Andrew Scoble.*

1934. May I ask whether each Cnmmissioner who brings up a particular case explains that case to his colleagues?—Yes.

1935. And answers any questions they may have to put, and bring the facts he wishes them to consider them before they come to a decision?—Yes, certainly; and the secretary, if he has any business to bring before the Board, explains it to the Board in like manner.

Chairman.

1936. Each individual Commissioner as the case comes up as it were conducts the case and lays it before his colleagues?—That is so, and they debate upon it and come to a conclusion; the ordinary current practice is that on Tuesday morning they begin with the business of the three permanent Commissioners, A department, B department, and C department, or any other business brought forward by the Chief Commissioner, the second Commissioner, or the third Commissioner; and then, after having dispatched that business, they proceed to the business of the department concerned with the administration of the Endowed Schools Acts, the E department, the business in the E department being brought forward by the senior Commissioner in that department, and afterwards by the other Commissioner in that department. After that is done, if the secretary has any business to which he has to ask the consideration of the Board, he brings it forward; and that, as a rule, concludes the proceedings.

Mr. *J. W. Lowther.*

1937. What happens on the other day?—On the other day, Friday, the two Commissioners in the department for the administration of the Endowed School Acts bring their business forward first; the senior Commissioner in that department beginning, and being followed by the other Commissioner in that department; and after that business is dispatched the Commissioners

Mr. *J. W. Lowther*—continued.

proceed to the work of the three permanent Commissioners under the Charitable Trusts Acts and other Acts.

Chairman.

1938. On Tuesday the Charitable Trusts' side business comes first, and on Friday the Endowed Schools' side business comes first?—That is so.

1939. Then it is after the formal business has been transacted, and the deliberation and discussion are entered upon, that the quasi-judicial functions of the Board arise?—No; I could hardly say that. The passing of a large number of these orders, perhaps the greatest part of them, might be described as judicial functions. I am not quite certain in what sense the term "judicial functions" is used. I only put in a caveat if I may, in answering your question, on that matter; but I could not, and I do not think the Commissioners could, accept the view that the judicial work of the Board only begins after the orders are passed, for those orders are among the most important judicial actions of the Commissioners.

1940. Then we may take it (in fact we have it, I think) that the discussion arises after the orders?—That is so; the deliberation. The words of the minute book are these: For years these words have been adopted, and I do not know that they could be improved upon. It begins by stating the Commissioners that were present. Take this 6th of June 1893, as an illustration. It is the first in the book; that is why I mention it: "At a meeting held on Tuesday the 6th of June 1893. Present,—the Chief Commissioner, Mr. Alderson, Mr. Hope, Mr. Ellis" (that is the Parliamentary Commissioner), "Sir George Young, and Mr. Richmond; and Mr. Fearon, secretary. The documents enumerated below were ordered to be sealed and signed." Then there follows a list of 30 documents of which 28 were ordered to be sealed, and the other two which did not require the official seal were ordered to be passed; after which the minute book proceeds in this way: "The following minutes were also directed to be taken"; those are minutes of deliberations of the Board.

1941. Then there is a clear line apparently drawn in the form of the minutes at the end of the passing of the orders?—Yes.

1942. Now would you give us an illustration if you please from the deliberative part of the proceedings?—The one I happened to have opened is the first day in this minute book; and I will take, if you will allow me five cases out of that first day.

1943. They are illustrative cases, I understand you to say?—Yes, these five are. They do not illustrate sufficiently anything like the general nature of the whole of the work done by the Commissioners. In order to do that, which I am prepared to do, I should have to detain the Committee, I am afraid, for some little time. With your permission I will not mention names.

1944. Certainly?—The first case on this particular day is a charity in one of the Home counties, and this is the minute: "Application dated the 9th of May 1893, from trustees for opinion and advice as to whether among other things they are, in the circumstances therein stated, justified in expelling an almsman. Resolved, that the Board is of opinion that they are so justified."

Chairman—continued.

1945. Now would that decision be governed by precedents?—That decision would be governed altogether by precedents in one sense that the Commissioners invent nothing; altogether by precedents in that sense, but also by a general knowledge, derived from legal training, of the equities of the matter, and of the law; some part of the common law would come in there no doubt as well. That is the first case. I am taking them exactly as they come in the minute-book. The second (you quite understand it is a pure accident that I have hit upon this one) is a case also in the Home counties of Poors' Allotments: "Application for authority under the Commons Act, 1876, section 19, to exchange an allotment awarded for the purpose of pasture and cutting turf, furze, and heath for fuel. Resolved, that the Board is not prepared to authorise this exchange." Now that required, of course, a careful consideration of the provisions of that Act.

1946. Now would you kindly give us as briefly as you think well, what had happened with regard to that case before it came to the Board on that particular day. It was in charge of a particular Commissioner, I presume?—Yes.

1947. What had happened before it came to the Board?—I must speak very generally, for my memory of each one of these cases is, of course, not too minute, more particularly when you bear in mind that I do not know the details of the case probably until it comes to the Board; I only hear, therefore, the statement made to the Board, and to the best of my ability form my judgment as to the conclusion the Board comes to.

1948. I only want to know the facts within your knowledge as secretary?—In that case it would be that the trustees of this allotment, or persons acting in the administration of it, desired to exchange it, and that the Board had to consider whether that could be authorised under the provisions of the Commons Act, 1876, and to apply to this particular case the provisions of that Act; that is to say, it is a case of the interpretation and application to the particular business of this department of a certain Act of Parliament.

1949. Then the next?—Then the next that follows is in the Midlands, a national school: "Question as to the extent, under the provisions of the third and fourth clauses of a scheme of 1882, of the powers of the incumbent over this school. Resolved, that the Board is of an opinion that this scheme does not give to the Committee of management the right of interference with the religious instruction of the scholars." Now that is the construction of a scheme or instrument varying or settling certain Charitable Trusts.

1950. The minute refers to an incumbent, and also the action of a committee of management; is there any distinction between the two?—The question really was what was the extent of the separate and distinct power of the incumbent in regard

Chairman—continued.

regard to the control of that religious instruction, as distinct from the committee of management which acted with him; it was a definition and distinction of their exact relations and powers.

1951. Then did the decision give to the incumbent what he claimed or was it adverse to him; —I could not answer that without reference; I did not prepare myself to answer on that point. It was a decision which I have quoted only to illustrate the nature of the work; it was a decision on that point at issue so far as the Commissioners could bind the department. That again is the construction of a scheme.

1952. Does your former answer with respect to its being of the nature of a decision in relation to an Act of Parliament apply to this case?—No; it is the construction of an instrument of a trust.

1953. Emanating from your department?—Yes, as persons having the general control, subject to the Court of Chancery, of the acts and duties of trustees and officers of charities.

1954. Then in that case the Charity Commission was giving its opinion as to what was the mind of the Charity Commission when it created the scheme?—No, I did not state whether the scheme was made by the Charity Commission; I think it was probably made by the Charity Commissioners in 1882; but I do not feel certain whether that scheme was made by the Charity Commission, though I suspect it was, and I think it was; but anyhow it would be not an opinion as to what was the mind of the Charity Commission when it made that scheme, but what was the true construction of the terms of the instrument as it stood.

Mr. *J. W. Lowther.*

1955. Just as the construction of a clause in an Act of Parliament is a question, not of the mind of Parliament, but what the meaning of the words is?—Yes. I feel very little doubt, though I do not happen to have it here on the minutes, that that was a scheme made by the Charity Commission. It may have been made by the Court, but I do not feel much doubt that it was made by the Charity Commission; but, by whomever it was made, the decision there is a decision upon the terms of the instrument as then before the Board.

Chairman.

1956. Now will you give us Case No. 3?—The next one is in the south-west of England: "Recovery of Charity Property. Resolved, that application be made to the Attorney General for his sanction to the institution of proceedings in this case under the 3rd section of the Charitable Trusts Recovery Act, 1891." That would be a case where certain property, either capital or income, was withheld by persons having possession or control over it, and where the Board considered whether, under the provisions of the Charitable Trusts Recovery Act, 1891, it was a case where, if referred to the Attorney General for his sanction, which is required under the Act for the institution of proceedings under the 3rd section of that Act, the Attorney General would be likely to give that sanction; or, possibly,

Chairman—continued.

whether it was a case which was so doubtful, the precedents in regard to which were so obscure, that in any case it was desirable that the responsibility of taking, or declining to take, proceedings should rest with the Attorney General. Most of those cases like that would be cases where the Commissioners came to the conclusion, upon a careful and often extremely elaborate examination of the facts, sometimes resulting from weeks of correspondence, and from the receiving of minute books, account books, and most elaborate documents from the persons moving the jurisdiction or acting in the administration, where, upon receipt and examination of such instruments or documents, the Commissioners have come to the conclusion that it is a case which ought to be sent to the Attorney General. That is a very common and ordinary part of the business. The next case (I am taking every one in order on this day) is in a Home County: "Trust for repair of church, repair of highways, and relief of poor. Failure of the second object. Question, whether provision in proposed scheme for equal division between the first and third objects is correct? Resolved in the affirmative." That is, I venture to think, an excellent illustration of what, with your permission, I propose to mention hereafter as the Chancery practice of the Board. I think I could hardly, in a small compass, put a more complete illustration of that work of the Commissioners, which involves a knowledge of the manner in which the court would look at it.

1957. Is that your fifth case?—That was the fifth case that day. There are nine cases that day. Shall I go on with them?

1958. I think you might; they are all fairly typical, are they?—I think they are. The next case is a scholarship, tenable at [ ] College, Cambridge. The Committee, of course, is aware that the Universities of Oxford and Cambridge, and the colleges in them, are exempt from the jurisdiction of the Commissioners under the Charitable Trusts Acts; but not so as to a scholarship held by trustees for application at a college in Oxford or Cambridge; that is a different matter; and this is one of those cases: "Application by Master Fellows and Scholars of this college, as trustees of the charity, for authority to sell under the Charitable Trusts Act, 1855, section 29. Resolved, that the Board is not, in view of the provisions of the first section of the Universities and Colleges Estates Act, 1855, 21 and 22 Victoria, chapter 44, prepared to give this authority." That is a case, speaking generally, you see, where the Commissioners, after consideration of a special Act relating to the universities and college estates, conceived that they had better not act in the matter; that they should not give the sanction asked for. Then the next case is quite a departmental one, a grammar school foundation in the Midland Counties: "Schemes approved under the Endowed Schools Acts in 1877, 1885, and 1889: Resolved, that this case be referred to the E department."

1959. It does not state the question which arose, does it?—No; neither can I say more

Chairman—continued.

than this: that it was the opinion of the Board that that matter, being a matter relating to an original scheme, and amending schemes, made under the Endowed Schools Acts, had better be dealt with by the Commissioners acting under the Endowed Schools Acts.

1960. Then the Board, as a Board, remitted it to a part of the Board acting under particular Acts of Parliament?—Yes.

1961. But did it remit it to the two Commissioners, or to the one in whose geographical district the case arose?—In effect it remitted it to the one in whose geographical district the case arose, because, in remitting it to the E department, it would be the rule of the office that it went to that Commissioner.

1962. Then it was remitted by the Board to an individual Commissioner to act according to his discretion?—That does not quite express, I think, what I should like to say.

1963. Perhaps you would put it in your own way?—It was remitted, through the agency of the Board, at the instance of the individual Commissioner having charge of it under the Charitable Trusts Acts, to the action of an individual Commissioner under the Endowed Schools Acts. That was what happened. There is a rule, it is one of the few rules governing the administration of the Charitable Trusts Acts as regards reference to the Board, that no scheme amending a scheme made under the Endowed Schools Acts shall be made under the Charitable Trusts Acts except by leave of the Board.

1964. Now the next?—The next is a scheme for a very great endowment, one of the greatest in England, perhaps one of the greatest in the world of its kind. A scheme was approved under the Endowed Schools Acts for this endowment in 1890. Under a clause of that scheme, when certain other charities closely related with this main endowment came to be dealt with, a further scheme was to be drawn under the Endowed Schools Acts. A further scheme was accordingly drawn for consideration by the governing bodies and persons acting in the administration of these various interests, and the Commissioner in charge of the case, having been in negotiation with those bodies, brought to the Board proposals to make some amendments in this draft scheme, and the minute of the Board is: "Further scheme as drafted for consideration; amendments in this scheme were agreed to." The details of those amendments would be brought *seriatim* by the Commissioner in charge of the case, with the reasons for them, before the Board. There are, as I have mentioned, more rules in practice under the Endowed Schools Acts requiring reference to the Board than under the Charitable Trusts Acts; and, of course, in every case where the rule requires that reference, the Commissioner is careful to bring it before the Board; but besides that, the Commissioner under the Endowed Schools Acts frequently seeks authority from the Board, the advice and counsel and assistance of the deliberations of his colleagues at the Board, in matters upon which the rules of the office do not require him to come to the Board. That is such a case.

1965. Is that your last case?—That is not the last in the list; the last I need not trouble you with; it is only correction in a certain order of the Board's, secretary's business.

Chairman—continued.

1966. Then you think that those are fairly illustrative cases of the work of the Board, though they are not sufficient?—I think they are most incomplete.

1967. But so far as they go fairly illustrative?—Yes, so far as they go.

Mr. *J. W. Lowther.*

1968. Is that a type of the average work that goes on at the Board?—I think so.

1969. A good average specimen of a usual day's work; I do not mean the length but the character of a usual day's work?—I think so; but I have taken some notes of the cases contained in this minute book, and if it would save the Committee trouble I would read those notes without going through the details of the case, so as to show them the nature of the work, if they think fit.

Chairman.

1970. Yes; perhaps you will proceed to do that?—That was the 6th of June; on the 9th of June there was a serious matter relating to accounts.

1971. Are these extracts from the minutes?—This is my note of the nature of the business. In my note is the name of the case, and a reference by which I can find it; and in my note I have put a few short words to show what the nature of the business is, as illustrating the business the Board does. On the 9th of June there was a matter, which I recollect had been a serious matter, about return of accounts by trustees of a charity. On the 21st of July there was a scheme brought before the Board to be made under the Charitable Trusts Acts, amending a scheme made under the Endowed Schools Act, and reconstituting the governing body. That illustrates the procedure in regard to educational endowments under the Charitable Trusts Acts, as distinct from procedure under the Endowed Schools Acts. The same day there was another case, an amending scheme made under the Charitable Trusts Acts, altering the age for admission into a school; an educational matter. Then, passing over some, on the 4th of August there was a business which occupied the Commissioners for the purpose of considering what steps should be taken to see that a scheme for a grammar school was duly observed, which appeared not to be duly observed. Then there was important business under the Welsh Intermediate Education Act, 1889. Then the same day there was an interpretation of a scheme made under the Endowed Schools Acts. The same day there was an important matter of Chancery practice, similar in its general nature to that which I have given details of already. Then the same day there was an important question of apportionment between non-educational and educational parts of a charity under the Endowed Schools Acts. Then the same day there was a case which showed the closest admixture of financial, legal, and educational business in regard to a charity. Then there follow in this list questions of general law and of equity, and of dealing with alterations required on account of decreased income

Chairman—continued.

income of a foundation. On the 12th of January in this year there was a serious question of a breach of trust, misappropriation of funds of a charity, which money has since been refunded by private individuals under the action of the Commissioners.

1972. Perhaps you have given us sufficient; will you allow me to see the minute book?—Yes (*handing the minute book to the Chairman*).

Mr. *Howell.*

1973. Have you given instances of each of the several divisions of your work in the cases mentioned; are they pretty well covered by them?—I think that the cases I have either mentioned in detail or by general reference give a sufficient account.

Chairman.

1974. You mentioned a case which was brought before the Board on the 12th of January of this year of breach of trust; as that is an important matter, I should like, if you please, to follow it up a little; the character of the trust, I see, was that it was for the distribution of clothing among certain poor communicants?—Yes.

1975. How was that brought before the Charity Commissioners?—I cannot say, as a matter of fact; I can do no more than say the probable source. It may have come before the board from accounts, or from a complaint made by somebody. How it was I cannot at this moment answer. I can refer, of course. (*After a pause.*) The Commissioner has been kind enough to remind me that it was, as I suspected, from the accounts. On receipt and examination of the accounts it was found that there was an improper application of the income of the charity, in fact, if I recollect right, it was a case where the benefit being for certain articles in kind to poor communicants the money was expended in the purchase of a new Communion plate.

1976. That was according to the minute?—To that irregularity, which I may go so far as to describe as a breach of trust, I think, the Commissioners called attention; and there lies, of course, behind any letter written calling attention to such a matter, if not in express words, by implication, the threat of reference of the case to the Attorney General; and I am glad to have been able to refer to this case, because it illustrates what happens in the greater number of cases of this kind. Expressly or by implication the Commissioners threaten that if the money or property so improperly applied is not made good to the charitable use by the persons improperly applying it, they will certify the case to the Attorney General; and in the great majority of cases (I do not think in this case it had to proceed so far as an express threat, the jurisdiction of the Commissioners is so well known and understood) the mere statement that the Commissioners will expect these people to refund that money is enough. But there always, of course, lies behind any letter in the last resort the certifying of the case to the Attorney General.

1977. This is a case in which the trustees of a particular charity diverted money, which, according to the trust, ought to have gone to the poor attending a particular religious service, to the purchase of articles used in the religious service of that particular denomination?—Yes, that is correct, generally.

Chairman—continued.

1978. And we may take it that the proceedings of the Charity Commissioners were perfectly effectual in restoring the money so improperly applied?—Absolutely effectual.

1979. I suppose we may take it from you that at the Board meeting, at times, a division of opinion arises as to the merits of particular cases coming before them?—As to the matter under discussion? Yes.

1980. I do not notice (perhaps you will tell us what is the practice) in these minutes, any such practice as obtains in the House of Commons, or in Select Committees of the House of Commons, of recording divisions?—No, it has never been the practice to record divisions; actual divisions of the Commissioners are very rare.

1981. And never recorded?—Never recorded. Well, I rather think that I must make an exception. I think that in one very serious and important case some years ago which had to be dealt with by the Commissioners in a large number or series of extra meetings, divisions were recorded.

1982. Was that in your time?—It was in my day; but before the date of that minute book now in your hand some time; but with that exception you may take it the general rule has been not to record divisions.

1983. Then, if the division of opinion was three on the one hand say, and two on the other, it would be recorded as a resolution of the Commissioners?—The decision is recorded, if the Chief Commissioner directs it. The Chief Commissioner might direct the secretary to let the matter stand over, and that no decision was to be taken down; it is entirely in the control of the Chief Commissioner to direct the secretary to take a minute, or not to take a minute, subject to the request and advice and desire of his colleagues sitting there. The secretary asks, as a rule, at the end of each discussion, whether he is or is not to take a minute of it.

1984. But he has to make minutes of the proceedings by statute?—Yes, there must be minutes of the proceedings; but it is not interpreted to mean that everything they do and say is to be recorded.

1985. And a minute might, in the discretion of the Chief Commissioner, be omitted?—Yes, very frequently matters are discussed on which it is not desired that any minute should be taken. I know by my own records everything that has been discussed, but that book before you only contains decisions.

1986. That omission does not apply, of course, to orders or decisions?—Every order is recorded, and every decision is recorded, but not every discussion.

Mr. *Oldroyd.*

1987. I should like to ask you whether it is a fact, that all matters of business are discussed, and if no decision is arrived at, no record is taken, but if a decision is arrived at on any matter brought under discussion, a record of it goes

Mr. *Oldroyd*—continued.

goes on the minutes?—Every decision of the Board is recorded.

1988. In the minute book?—In the minute book.

1989. Therefore, no matter of business, settling any trust, or any matter which comes before the Board, can take place without being recorded in the minute book?—There may be conclusions made from a discussion, on which no decision of the Board is come to, which practically guide the person who has brought it before the Board for consideration; but generally speaking, that is a correct statement, that every decision of the Board is recorded in that book.

1990. No matter if it affects the public outside or affects the trustees, is it always recorded in the minute book?—I could not say that. I would ask to be allowed to put it in this way: that every matter which is brought before the Board, and upon which the Board comes to a decision, is recorded in that minute book; but matters are debated, and the Commissioner in charge of the case which is debated gets light and guidance for his use from the debate of the Board without an actual decision being come to, and its being recorded in that minute book.

Chairman.

1991. Now, what happens in case of an equal division of opinion, if such a thing ever happens?—Well, as there are six Commissioners of course it is possible to happen, but *cadit quæstio.*

1992. It goes by the same rule that we have generally, that nothing is done?—The general rule of all meetings.

1993. I understand that the Chief Commissioner has a vote as a Commissioner, in the first place?—Yes.

1994. Then, has he a casting vote?—No.

1995. Is that all you desire to say with reference to the Board?—I think that is all I wish to say about the Board, except that I should like it to be clearly understood before I leave that (though I think it is understood) that no account such as I have given you from the minutes is an exact account of the great variety of work done by the Board. I am only anxious to do justice to my Board.

1996. So far as it goes, it is fairly illustrative?—Yes, it is illustrative.

1997. Now, I will take you, in conclusion of your evidence to-day, to the head of "Procedure;" there is an error that sometimes exists, I think, a popular error, that the procedure under the Charitable Trusts Acts has nothing to do with educational charities, while the procedure under the Endowed Schools Acts has to do with the educational charities exclusively?—Yes.

1998. Perhaps you will clear that up?—It is an error which is to a certain extent fostered, I must confess, by our own nomenclature. We speak, for example, of the Endowed Schools Department as if the other departments had nothing to do with endowed schools, whereas the largest part, I may almost say, or at any rate amongst the most important parts of the business under the Charitable Trusts Acts, is dealing with endowed schools. But, will it be trespassing too far on the patience of the Committee if on this matter I read a few sentences from a confidential paper which was drawn up for another purpose?

Chairman—continued.

1999. If you please?—It is so intricate and technical a matter that I am anxious to be allowed to read from a carefully considered paper. "The authority of the Commissioners over Endowments for Education is established and defined by two principal sets of Acts of Parliament, namely: first, the Charitable Trusts Acts, 1853 to 1891; and secondly, the Endowed Schools Acts, 1869 to 1874, and the Welsh Intermediate Education Act, 1889, known collectively as the Endowed Schools Acts, 1869 to 1889. The authority of the Commissioners over Endowments for Education under the Charitable Trusts Acts is their older and more permanent jurisdiction. It is, as regards the number of Educational Endowments over which it extends, wider, but, as regards its power narrower, than the jurisdiction under the Endowed Schools Acts. Every Endowed School and other Educational Endowment in England and Wales is the object of a Charitable Trust, and as such is subject, as regards it's endowment, to the jurisdiction of the Commissioners under the Charitable Trusts Acts, with the following exceptions, namely: first, the Universities of Oxford, Cambridge, and Durham, and the colleges therein; secondly, the Colleges of Eton and Winchester. As a consequence of this jurisdiction, the trustees or governing bodies of these endowments must render yearly accounts to the Commissioners, and are, in administering the endowments, under certain legal disabilities, for relief from which they must have recourse to the powers conferred by these Acts on the Commissioners. These powers may be summarised as follows: first, power to inquire into the administration of the endowments; second, power to compel the production of accounts and information; third, power to authorise acts, such as dealing with corpus of real estate, and with capital of personal estate, grants of pensions, and so forth; fourth, power to appoint and remove trustees and other officers; fifth, power to vest real and personal estate, and otherwise to safeguard the property of endowments; sixth, power to control legal proceedings taken on behalf of the endowments; and seventh, power to make schemes for the endowments, so as to adapt their administration to meet occurring changes." You have already had in evidence from the Chief Commissioner, I think, the sections of the Act under which these powers are derived; so I will not go through them; but "the penalty for any failure, on the part of trustees or governing bodies, to comply with any requirement of the Commissioners under those sections, is that the persons so offending shall be deemed to have been guilty of a contempt of the Chancery Division of the High Court of Justice, and shall be liable to be attached and committed by that Court on summary application by the Commissioners to the same, and shall pay the costs of and attending such contempt as the Court shall direct." That illustrates the authority of the Commissioners under the Charitable Trusts Acts over an endowed school.

2000. There is a Paper in the Appendix of the Report of 1866, which contains some illustrations;

Chairman—continued.

tions?—Yes, I have no doubt that this was to a large extent set out there.

2001. Pages 469 and 470 of the Report of the 11th June 1886, contains a large body of evidence on that head?—Yes, I see what you are referring to; but before I come to that may I read a few words more from this confidential paper?

2002. Yes?—"The trustees or governing bodies of these educational endowments are made by the law subject to certain legal disabilities, which affect them at almost every point of the educational administration of the endowments." I wish to dwell upon this, as it is of importance in reference to the question of whether it is possible to separate between the legal and the educational administration of an educational charitable trust.

2003. I understand that your evidence is now intended to show that, in your opinion, they are to a certain extent inextricably intertwined?—Yes, that is so; and I daresay later on you will give me an opportunity to develop that a little. For example, the trustees or governing bodies of a general educational endowment "cannot dispose of an old or acquire a new school site, or erect buildings thereupon for scholastic purposes, or borrow money for these or other purposes of exceptional or capital expenditure, or pension a master or mistress, without recourse to the Charity Commissioners. It is found too in the result of experience that questions of finance are inextricably involved in the exercise of special control over educational endowments. In many cases a failure to observe the educational provisions of a scheme is attributable to financial embarrassment, from which the endowment can be relieved only by the administrative action of the Charity Commissioners." I think that I need not read further upon that matter except to say this: that these powers under the Charitable Trusts Acts over an endowed school "are exercised by the Charity Commissioners concurrently with the powers they exercise under the Endowed Schools Acts; the former class of powers being permanent, and the latter being renewed annually under the provisions of the Expiring Laws Continuance Act." These powers under the Charitable Trusts Acts of appointing trustees and making schemes cannot be exercised except on application if the income of the endowment amounts to 50*l.* a year or upwards; nor, in the case of an endowment subject to the provisions of the Welsh Intermediate Education Act, 1889, can they be exercised without the consent of the Education Department. They are also limited by the general doctrines of equity, and cannot, except with recourse to Parliament, be exercised over trusts declared by statute. On the other hand they can be exercised in regard to a scheme which has been made under the Endowed Schools Acts, although that scheme has the force of an Act of Parliament, by virtue of provisions invariably inserted in the scheme itself, reserving that power to the Commissioners; and, if you look at the Appendix to which you have referred, you will see how largely that power has been exercised.

2004. Now comes in the reference to page 469 of the Report of 1886, and I want to ask your attention to that. Now there are a series of amending schemes established by orders of the Board?—Yes; that was an analysis which I made for the use of that Committee of the principal provisions of schemes amending original schemes made under the Endowed Schools Acts.

2005. And that analysis consists of 17 heads occupying four pages?—Yes; and the list shows, I think, how large and how important in that one branch alone is the educational work of the Commissioners under the Charitable Trusts Acts.

2006. Perhaps you would just run rapidly through those 17 heads, so that we should get some of the more important ones on the notes?—I will take only the more important. The second is "to meet alterations in the Code of the Education Department"; the next is "to make amendments necessitated by transfer to a school board of an elementary school of a foundation"; the next that I will mention is "to extend the benefits of endowment to girls"; the next that I will mention is "to modify or define the provisions relating to privileged classes"; the next is "to alter provisions relating to governing bodies"; the next is "to alter provisions relating to the admission of boarders" the next; "to alter provisions relating to emoluments of teachers"; the next "to alter provisions relating to tuition fees." All those you see are very distinctly educational provisions, matters of educational administration; then the next that I will mention, and one of the most numerous, is "to alter provisions relating to school ages," ages for attending or leaving school; the next is "to alter provisions relating to subjects of instruction; and the last that I will name out of the 17 is "to alter provisions relating to amounts, and other particulars, of scholarships and exhibitions."

2007. Those are all cases of educational work?—Educational work under the Charitable Trusts Acts.

2008. I was going to say, and it is done under the Charitable Trusts Acts?—Yes, in regard to the amending of schemes made under the Endowed Schools Acts; but there is a vast quantity of other educational work under the Charitable Trusts Acts done by the Commissioners.

2009. You give us these as illustrations to dispose of the prevalent error that the procedure under the Charitable Trusts Acts has to do with non-educational endowments exclusively, while the procedure under the Endowed Schools Acts has to do with educational endowments exclusively?—Yes.

2010. Now, why have schemes amending original schemes made under the Endowed Schools Acts been more largely made under the Endowed Schools Acts in recent times?—I think that the first and principal reason of that is this, that as the number and distance of date of the original schemes made under the Endowed Schools Acts increase, the difficulty of obtaining an application for an amending scheme under the Charitable Trusts Acts increases. In fact, in short, what has been described to this Committee as the 50*l.* limit is the key to it. You know that, under the Charitable Trusts Acts, if the

Chairman—continued.

income of an endowment amounts to 50*l.* and upwards, which is the case, you see, with almost all these Grammar Schools and other foundations for which schemes have been made under the Endowed Schools Acts, in order to make an amending scheme under the Charitable Trusts Acts the Commissioners must have an application from the governing body or persons acting in the administration of the charity. The longer that governing body has been created, the longer they have been used to deal with and administer the endowment—the more independence that is to say they have acquired from the date of their original constitution by the scheme—the more they know and take an interest in and identify themselves with the administration of this foundation, the less apt are they to make application to the Commissioners for alterations of the scheme. The consequence is that as under the Endowed Schools Acts, except in Wales and Monmouthshire, the Commissioners have the initiative, they are naturally (and I think I may say in the public interest) not disposed to occupy much time in endeavouring to obtain an application from the Trustees, but refer the case for amendment to the department to which the initiative belongs, and which can begin upon it.

2011. That is the E Department?—That is the E department. That I think is one reason. Another reason is that, to a certain extent, at all events (though I should wish to dwell upon this less than the reason I mentioned just now) that work of making amending schemes is the work of the E department which goes more quickly forward; it is less complex and more simple than the work of making an original scheme, which is an extremely difficult and complex proceeding, and naturally it goes forward rapidly. But the main reason is the first, the 50*l.* limit.

2012. Then from these reasons the accession of business to the E department is very considerable?—Very considerable.

2012.* Is it growing at an increasing rate?—Yes, that is the tendency. I do not say that it has actually become, but it has a tendency to become, in course of time at all events, a leading part of the business of the E department.

2013. Can you refer us to any Report which would show us how large a part of the E Department is occupied by amending schemes?—Yes, if you look at the tables which are printed at the end of the yearly Reports to the Queen. If you look at the table at the end of the last Report, the 41st Report, Appendix B, you will see that the Commissioners distinguish there the schemes which are made under the Endowed Schools' Acts, which are amending schemes, by means of italics, from the other schemes, and by looking over that table, you will see how important a part of the business of the E department is the making of these amending schemes.

2014. You will remember that evidence has been given before former Committees, or rather an estimate has been given before former Committees, as to the time that any Endowed School Department might come to an end; would you wish us to infer that this accession of business renders that more problematical?—I think, as matters now stand, and certainly unless the 50*l.* limit is removed, the work under the Endowed Schools Acts will never come to an end.

2015. Would the removal of the 50*l.* limit shorten things?—Yes.

2016. The removal of the 50*l.* limit would, in that sense, be an economy to the nation?—My answer is to be taken with this qualification, that it might be that the nation might be of opinion that at all events some part, and an important part, of the provisions of the Endowed Schools Acts ought to be rendered permanent; but in the sense of a distinct department, charged mainly with the business of making schemes under the Endowed Schools Acts, the removal of the 50*l.* limit is the means which occurs to me as the most effective for expediting that work.

2017. And you are distinctly in favour of the removal of the 50*l.* limit?—Yes, I think it is the key to all real progress in the work of the whole Charity Commission.

Friday, 25th May 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Jesse Collings.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Freeman-Mitford.
Mr. Howell.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

Mr. DANIEL ROBERT FEARON, re-called; and further Examined.

Chairman.

2018. HAVE you a Treasury Minute to put in?—The Treasury Regulations of the 27th of March 1889, with reference to the Department of the Official Trustees of Charitable Funds. (*The same was handed in.*)

2019. Will you please proceed to describe to us the procedure for making schemes?—Shall I take it under the Charitable Trusts Acts first?

2020. If you please. Perhaps it might save time if you would give us what was I think embodied in that confidential document from which you read last time?—If you please. The procedure for establishing a scheme under the provisions of the Charitable Trusts Act, 1853, by the authority of Parliament, is minutely described in Sections 54 to 60 of that Act, and perhaps you will hardly desire me to go through those sections as they will be found in the Act; and in the 39th Report of the Commissioners to the Queen, paragraph 35, will be found an example of that procedure, and of the particulars respecting the scheme which are required by the 60th section of that Act to be reported to Her Majesty. I pass on to the ordinary procedure under the Charitable Trusts Acts, 1860 and 1869, for appointment of Trustees and establishment of a scheme. It should be carefully noted that that procedure is now seldom employed for the purpose of dealing with endowments subject to the Endowed Schools Acts, except for the making of amending schemes in cases where original schemes have already been made under those Acts. I think I may briefly describe that procedure, that is to say, under the Charitable Trusts Acts, 1860 and 1869, as follows: The application from Trustees or others required by the Act having been duly received, and the Commissioner in charge of the case having given instructions as to the persons to be appointed trustees, or the provisions of the scheme, as the case may be, notice is published giving particulars as to the appointments proposed; and, in the case of a scheme, either an abstract of its provisions or a statement of the place where it is deposited, and may be seen. The mode of publishing that notice is in every case by affixing it to public buildings in

Chairman—continued.

the locality, and also in all except unimportant cases by insertion in at least two newspapers of opposite politics circulating in the locality interested. The notice publicly affixed must remain so affixed for not less than 15 days; and not less than 21 days are allowed for receipt of objections and suggestions. These formalities having been duly complied with, if no objections and suggestions are received as the result of publication, the order appointing trustees or establishing a scheme is drafted. If objections are received they are first considered by the Commissioner in charge of the case. In some instances the matter is then brought before the Board, and sometimes a public inquiry is held by an Assistant Commissioner. Other cases are dealt with by correspondence or by interviews with the trustees or other objectors. Where it appears to be desirable, alterations are made in the proposals to meet the objections which have been raised. If these proceedings do not remove the objections the Commissioners may, if they think fit, decline to proceed with the case; but if they think that the case ought to proceed notwithstanding the objections, the order appointing trustees or establishing a scheme is then drafted. A proof of the order is then sent to the correspondent in the locality, for examination in respect of clerical or other errors; and, if an Inland Revenue stamp or stamps are required on the order, the correspondent is requested to remit the cost of the stamp or stamps. This payment having been received, and the draft returned after examination in the locality, the order is then finally passed by the Commissioner to whose district the case belongs, is brought before the Board and is directed by the Board to be sealed. From the date of that direction the order is operative. When printed and sealed the order is sent to the local correspondent, and a notice is published usually by the process of affixing on a public building, though occasionally also in newspapers, stating that an order has been made to a certain effect, and that a copy of the order may be inspected at some designated place in the locality, and at the office of the Commissioners in Whitehall, for one

Chairman—continued.

calendar month from the date of the notice. That concludes the proceedings.

Mr. *Howell.*

2021. Are there any fees charged for inspection?—No.

Mr. *Jesse Collings.*

2022. You do not advise the local authority, do you, as well as affixing a notice on the public building?—Yes, in all cases of a municipal borough we inform the local authority, and in many other cases besides.

2023. That is part of your usual course?—Yes, part of the usual proceedings.

Chairman.

2024. That concludes your account of the procedure?—That is the formal and ordinary procedure for establishment of a scheme under the Charitable Trusts Acts, 1860 and 1869.

Mr. *Howell.*

2025. You spoke about charging to the correspondent the cost of stamps; that is, I suppose, any private correspondent who might happen to have some suggestion to make in regard to the scheme?—No, pardon me, not so. The correspondent that I am there speaking of is the official correspondent on behalf of the Trustees.

Chairman.

2026. Will you pass to your next head?—I should like, with your permission, before proceeding to describe the procedure for establishing a scheme under the Endowed Schools Acts, to make one or two preliminary observations which I think may save your time and that of the Committee.

2027. If you please?—What I wish to be permitted to observe is this: that the authority of the Charity Commissioners over Educational Endowments under the Endowed Schools Acts is concurrent with that under the Charitable Trusts Acts, but not all educational endowments which are subject to their jurisdiction under the Charitable Trusts Acts are also subject to their jurisdiction under the Endowed Schools Acts; and that, I think, is an important distinction. I would proceed if you think fit to name some exceptions.

2028. Will you do so, please?—For example, in addition to the Colleges of Eton and Winchester, which are excepted from the jurisdiction of the Charity Commissioners under the Charitable Trusts Acts, the following are excepted from their jurisdiction under the Endowed Schools Acts, namely, the Schools of Charterhouse, Harrow, Rugby, Shrewsbury, and Westminster and their Endowments. Those schools, besides the Colleges of Eton and Winchester, are exempted from the Endowed Schools Acts by Section 8, Sub-section (1) of the Endowed Schools Act, 1869. Further, all Endowed Elementary Schools having an income from endowment not exceeding 100*l.* a year are excepted by the 3rd Section of the Endowed Schools Act, 1873, from the operation of the Endowed Schools Acts, 1869 to 1874; that is to say from the jurisdiction of the Commissioners

Chairman—continued.

under the Endowed Schools Acts in England exclusive of Monmouthshire, but not from that jurisdiction in Wales and Monmouthshire, those endowments having been restored to the jurisdiction under the Endowed Schools Acts for the purposes of Wales and Monmouthshire by the Welsh Intermediate Education Act, 1889. Further, endowed schools maintained by voluntary contributions, and having no income from endowment; schools not being grammar schools, which in 1869 were in receipt of an annual grant from the Education Department; and schools maintained out of endowment not permanently attached to them, are exempted by other subsections of Section 8 of the Endowed Schools Act, 1869, from the operation of the Endowed Schools Acts, 1869 to 1874; but the first two of those classes of schools are not exempted from the operation of the Welsh Intermediate Education Act, 1889. Further, chorister schools are exempted by Section 8, Sub-section 7, of the Act of 1869, from the operation of the whole of the Endowed Schools Acts; that is to say, from the jurisdiction of the Commissioners under the Endowed Schools Acts in the whole of England and Wales. And the last example which I think is sufficiently important for me to trouble the Committee with is this: Every Educational Endowment founded between the 2nd of August 1819 and the date of the principal Endowed Schools Act, namely, the 2nd of August 1869, is excepted, unless the governing body assents to the scheme, from the operation of the Endowed Schools Acts, 1869 to 1874. Now, the Committee will observe that all those Educational Endowments except Eton and Winchester are subject to the jurisdiction of the Commissioners under the Charitable Trusts Acts, though excepted, to the extent and in the manner which I have just mentioned, from that under the Endowed Schools Acts. Next, I should like to be permitted to observe that, in respect to this jurisdiction of the Commissioners under the Endowed Schools Acts, it is not, like their jurisdiction under the Charitable Trusts Acts, a general administrative jurisdiction, but is directed to the one object of making schemes, original or amending, for the regulation of the endowments concerned. All the powers given to the Commissioners under the Endowed Schools Acts, though many of them are identified with those given to them under the Charitable Trusts Acts, are given them with a view to the one leading purpose of the Endowed Schools Acts, namely, the making of schemes. And when a scheme has been made under the Endowed Schools Acts the Commissioners do not continue to deal with the case under those Acts, but the case reverts exclusively to their jurisdiction under the Charitable Trusts Acts, unless and until they commence, as they may do, fresh proceedings under the Endowed Schools Acts for the establishment of an amending scheme. Any act required to be done by the Commissioners under the provisions of the scheme, or in consequence of its establishment, such as giving directions for transition to a new governing body, authorising proceedings for the erection or improvement of schools for the purposes of the scheme, seeing that the provisions of the scheme are duly carried out, acting,

Chairman—continued

ing, where necessary, as visitors of any endowments under the scheme, and determining questions as to the construction or application of any of the provisions of the scheme, is the work of the Commissioners, acting, not under the Endowed Schools Acts, but under the Charitable Trusts Acts. I have ventured to trouble you with that in detail, because there is a great deal of misconception, I have reason to believe, on that matter abroad.

2029. What matter?—I mean that it is frequently supposed that the Endowed Schools Department of the Charity Commission does all the work of the Commission relating to endowed schools; whereas the larger, the more continuous, and, in some though by no means in all respects, the equally important work of the Commissioners in regard to endowed schools is done under the Charitable Trusts Acts. But in at least the three following important respects the jurisdiction of the Commissioners, as exercised under the Endowed Schools Acts, 1869 to 1874, that is to say, in England, exclusive of Monmouthshire, over endowments subject to these Acts, is more powerful than that exercised by the Commissioners under the Charitable Trusts Acts; and I should like, if you would permit me, to mention what those three respects are.

2030. Certainly?—First, the Commissioners can in all cases act on their own initiative. Secondly, they can vary trusts without regard to equitable doctrines such as that of *cy-près*, and subject only to the requirement of the ninth section of the Endowed Schools Act, 1869, that they shall deal with those trusts in such manner as may render any educational endowment most conducive to the advancement of the education of boys or girls, and to the other restrictions and limitations imposed by the express provisions of the Endowed Schools Acts. And, thirdly, every scheme made under the Endowed Schools Acts has, by virtue of the 45th section of the Endowed Schools Act, 1869, the force of an Act of Parliament.

Mr. *Jesse Collings.*

2031. Do we rightly understand you to say that the Commissioners have power to disregard the doctrine of *cy-près*?—The doctrine of *cy-près* does not apply or come into consideration in any way in dealing with foundations under the Endowed Schools Acts.

Chairman.

2032. Will you proceed?—Now, the two cases mentioned of those important particulars in which the jurisdiction of the Commissioners, as exercised under the Endowed Schools Acts, is more powerful than that exercised by them under the Charitable Trusts Acts, apply to endowments in Wales and Monmouthshire; but the Commissioners cannot, since the passing of the Welsh Intermediate Education Act, 1889, act on their own initiative with reference to endowments subject to the Endowed Schools Acts, and to the Welsh Intermediate Education Act, 1889, in Wales or Monmouthshire. Those are the observations which I thought it might be useful

Chairman—continued.

to the Committee to make in order to clear the ground exactly, when proceeding to describe the procedure under the Endowed Schools Acts.

2033. You wish, I gather, to emphasise to us the fact that the Charity Commission cannot be divided by a very clear and distinct line into two parts, so far as educational endowments go?—Quite so.

2034. But that the Charity Commissioners acting under the Charitable Trusts Acts have powers in regard to educational endowments, just as the Charity Commissioners acting under the Endowed Schools Acts have powers in regard to educational endowments?—Yes, differing powers, but powers——

2035. Would it be fair to say that, so far as educational endowments go, the powers are intertwined or interlaced; would it be fair to go as far as that?—Well, I should prefer, with your permission, to put it this way, that the legal and educational administration of an educational endowment are closely intertwined; but, of course, it is possible that the power of making schemes under the Endowed Schools Acts could be, as it once was, quite separate from the jurisdiction of the Charity Commissioners. That, with your permission, I shall propose to say something more upon when you think fit.

2036. Does that complete your preliminary observations?—Yes.

2037. Now will you pass to the procedure for making schemes under the Endowed Schools Acts, so far as it is in the hands of the Charity Commissioners?—The following is a summary of that procedure, so far as it is in the hands of the Charity Commissioners, for making schemes in England, exclusive of Monmouthshire, under the Endowed Schools Acts, 1869 to 1874, which do not, you will observe, include the Welsh Intermediate Education Act, 1889. The first important step is inquiry by an Assistant Commissioner into the nature of the particular endowment and the general facts of the case. In some cases this inquiry is public, but more frequently it is confined, in the first instance, to conference with the trustees or other local bodies interested. When the Commissioner to whose district the case belongs has considered the report of the Assistant Commissioner, and, if necessary, directed further inquiry or negotiation with the trustees, a document which is called "Heads of a proposed Scheme" (of which, I think, you have heard already) is drawn up under the Commissioner's instructions, and is distributed to all the six Commissioners. This document is afterwards brought before the Board, is explained by the Commissioner, is considered, and, if thought fit, amended and approved by the Board as the basis of a scheme. The scheme is then drafted on that basis, and, when it has been printed, is usually sent to the trustees for their confidential consideration and remarks. In the result of these remarks, the draft scheme is sometimes brought again to the Board for amendment before publication. When the case appears to the Commissioner to be ready for publication, he directs the Secretary to publish it. Copies of the draft scheme are then sent to the governing body of the endowment to which it relates, and in the case of a school to

Chairman—continued.

the principal teacher, and to other persons and bodies interested, such as county and borough councils and school boards. The scheme is also advertised in local newspapers of opposite politics, is deposited in the locality and at the office of the Commissioners for gratuitous public inspection, and is sold at a small price. Public notice is also given that during two months from the date of publication any objections and suggestions in writing respecting the scheme will be received by the Commissioners. After the two months have expired, the Commissioner to whose district the case belongs considers all the objections and suggestions received, and again brings the case before the Board. In a contentious or otherwise difficult case, a public local inquiry respecting the scheme is then held by an Assistant Commissioner, and a further report upon the case is made by him in the result of that inquiry. Throughout the case, in addition to the more formal proceedings which I have described, interviews and conferences are often held in London and elsewhere, and deputations from bodies interested are received at the office of the Commissioners. If the Commissioners proceed with the case the next step is, that they formally frame the scheme, as the Act terms it, and submit it to the Committee of Council on Education; and at that stage in the procedure the scheme passes out of the jurisdiction of the Commissioners, and out of their hands into those of the Education Department.

Mr. *J. W. Lowther.*

2038. Do you not also send a copy of those proposed schemes to the Library of the House of Commons?—No; the name and title of the scheme is sent, so that a copy may be obtained by any Member of Parliament interested.

Chairman.

2039. Will you proceed?—You will observe, therefore, that at that stage the scheme has passed out of the hands of the Charity Commissioners into those of the Education Department, and it may be generally stated that from that point the procedure is in the hands of the Education Department. But there is one episode, if I may so call it, in the procedure for establishing a scheme, which sometimes occurs, in the course of which the scheme comes back for a definite limited purpose to the hands of the Charity Commissioners, and that is, if a petition is presented to Her Majesty in Council against the scheme under the provisions of Section 14 of the Endowed Schools Act, 1873.

2040. What happens in that event?—If that petition is presented, Her Majesty, under the provisions of that section, refers the petition to the Judicial Committee of Her Privy Council for hearing; and thereupon the practice is, that the Education Department sends the scheme back to the Charity Commissioners for the particular purpose of these legal proceedings, which are conducted not by the Education Department but by the Charity Commissioners, as respondents to the petition. The Commissioners, having received a copy of the petition from the Clerk to the Privy Council, instruct their solicitors to the effect that they propose to appear

Chairman—continued.

by counsel upon the hearing, and direct them to inform the standing counsel of the Commissioners accordingly. In due course counsel are furnished by the Commissioners through their solicitors with particulars for their case as respondents; and the case is drawn up and settled by counsel in conference with the Commissioners and their solicitors accordingly. As the result of the hearing, the Judicial Committee make to Her Majesty a report or recommendation upon the appeal, the nature of which is required by the 14th section of the Endowed Schools Act, 1873, to be stated in open court; and (dismissing technical language from what I am about to say) they may recommend to Her Majesty, either to approve the scheme or to withhold her approval from the whole or any part of it. If the Judicial Committee recommend Her Majesty to approve the scheme, the scheme is then forthwith laid before Parliament, if then sitting, or, if not, within three weeks of the commencement of the next ensuing Session, by the Education Department; and for this purpose the scheme is referred back by the Charity Commissioners to that Department, and again leaves the hands of the Charity Commissioners. If the Judicial Committee recommends Her Majesty to withhold Her approval from the whole of the scheme, the procedure for establishment of that scheme is at an end, and the scheme does not take effect; but the Commissioners may then begin to prepare a new scheme in the matter. If, on the other hand, the Judicial Committee report to Her Majesty to withhold approval from part only of the scheme, the scheme is referred back to the Commissioners for alteration accordingly, and then is retransmitted by them, so altered, to the Education Department to be laid before Parliament.

2041. Perhaps you can give us an idea whether this procedure under Sections 14 and 15 of the Act of 1873 has often arisen?—Yes; considering the seriousness of the procedure, I think I may say that it has not infrequently arisen.

2042. How many cases in a year?—Not one on an average, I should say, in a year, taking it over the whole of the years; but you will find a statement as to the purport and results of appeals under the Endowed Schools Acts to the Queen in Council in the Second Appendix to the Report of the Select Committee of the House of Commons of 1886–87 on the Endowed Schools Acts, complete up to that date. Of course there have been other appeals, more than one, I think, since that date.

2043. Have the appeals been at about the same rate per annum since that date as they were up that date?—No, I should think (though, speaking on a statistical matter which I have not looked into, I must be permitted to guard myself) they have not been, for this reason: that they have not generally been successful; the Commissioners have prevailed on the whole in the appeals; and, further than that, points which were without precedent have been settled, and judgments have been given determining the most important points in the procedure under the Endowed Schools Acts.

2044. May we take it that that part of the procedure has tended to decrease?—It tends to decrease,

Chairman—continued.

decrease, though it may be that a slight renewal of the tendency to appeal has been caused by the passing of the Welsh Intermediate Education Act, 1889, which raises new matters of law.

2045. But I suppose there precedents are accumulating, and the same thing will occur probably, that as precedents are made these appeals will become less numerous?—I have no doubt of that, gradually.

2046. Have you anything further to add on the general question of procedure under the Endowed Schools Acts?—I have only to add this, leaving all that can properly be said to belong to the Education Department to them, and not answering on that part of the business, that on being approved by the Queen in Council the scheme comes into operation, and has the force of an Act of Parliament, as I have said.

2047. Will you give us as briefly as possible the procedure under the Welsh Intermediate Education Act; you need not go into it at any great length?—No, it will be enough for your purpose if I state the principal modifications in the procedure?

2048. Yes?—The Welsh Intermediate Education Act, 1889, which is the latest of the Endowed Schools Acts, modifies the operation, and provisions of the Acts of 1869 to 1874, with respect to educational endowments in Wales and Monmouthshire which are subject to the Endowed Schools Acts. I will mention the following principal modifications. First, the Commissioners cannot while that Act is in operation proceed upon application either under the Charitable Trusts Acts, or under the Endowed Schools Acts, on their own initiative in Wales and Monmouthshire as they can in the rest of England. They must before making a scheme under the Charitable Trusts Acts, even if they have an application from the trustees or other persons empowered to make an application for any educational endowment in Wales or Monmouthshire, obtain under the 11th section of the Welsh Intermediate Education Act, 1889, the consent of the Education Department; and also, before making any scheme for any such endowment under the Endowed Schools Acts, they must either obtain the consent of the Education Department, or have had submitted to them, under the 3rd section of the Welsh Intermediate Education Act, 1889, a draft scheme or proposals for a scheme from the Joint Education Committee of the county or county borough within which the endowment operates. The mode in which those Joint Education Committees are established and constituted is prescribed by the 5th section of the Welsh Intermediate Education Act, 1889.

2049. Let me remind you that we have had almost all of that very fully from Sir George Young; all that arises out of the Act itself?—You do not wish, therefore, to hear anything further on that?

2050. If you will limit yourself, please, to the different points of procedure?—Secondly, if the Commissioners and the Joint Education Committee of any county are unable to agree as to the provisions of a scheme to be submitted under the Welsh Intermediate Education Act to the Education Department, the Commissioners are

Chairman—continued.

required by Section 3, Sub-section 4, of the Act to submit to the Education Department, together with the provisions of their own scheme those of the conflicting scheme of the Joint Education Committee; thirdly, the County Council or Joint Education Committee of any county or county borough may, under certain conditions defined in Section 4, Sub-section 4, of the Act, petition the Education Department in the same manner as the persons and bodies named in the 13th Section of the Endowed Schools Act, 1873, that a scheme be laid before Parliament. Fourthly, Assistant Commissioners to the Charity Commissioners have under Section 6, Sub-section 3, of the Act the right to attend meetings of the Joint Education Committees, but not to vote thereat. And the last point that I will mention is that a County Council may recommend to a Joint Education Committee that a rate not exceeding one halfpenny in the pound shall be levied on the county or county borough for the purposes of the Act; and provision may be made in the scheme for the levying and application of the rate. Schemes, therefore, under the Welsh Intermediate Education Act, 1889, may deal with local rate as endowment.

2051. Does that complete all that you desire to say as to the differing points of precedure?—Yes.

2052. Now, we will pass, if you please, to the Reference to the Committee. Would you prefer to take the Reference as a whole or divide it into two parts?—I should much prefer to take it as a whole.

2053. Then, what occurs to you as to the business which will come before the Charity Commissioners; will you give us anything that you have to say upon that point in the first place?—As I understand, the Reference to the Committee, to which you alluded, is "whether it is desirable to take measures to bring the action of the Charity Commission more directly under the control of Parliament and to give it more effectual means of dealing with the business which will come before it." Now, in considering how I should answer questions which you might think fit to address to me upon that matter, it has appeared to me that the two parts of that Reference are so closely connected that I should find a great difficulty in considering the first without regard to the second. It appears to me that the business which will come before the Charity Commission, so far as I am able to estimate it, may be roughly divided into two classes; first, dealing with endowments or charitable trusts which are non-educational under the powers of the Charitable Trusts Acts, and the other Acts of Parliament which have conferred special powers on the Commissioners; and, secondly——

2054. Before passing to the second would you mention two or three of those Acts of Parliament?—There are numerous Acts, but I will mention the Allotments Extension Act, 1882, and the last important Act, the Local Government Act, 1894, as examples only of numerous Acts.

2055. Now, secondly?—Secondly, dealing with endowments

Chairman—continued.

endowments or charitable trusts which are educational, under the Charitable Trusts Acts, the Endowed Schools Acts, and other Acts applicable to the subject, such as the Technical and Industrial Institutions Act, 1892, which I will mention as an example.

2056. Now, before we pass to the more detailed consideration of those two classes may I refer you to the answer to Question 304, and the answer to Question 431, and the answer to Question 684, by the Chief Commissioner. The purport of those answers, as expressed in one of them, viz., No. 431, is that in the opinion of the Chief Commissioner "if the work of the Charity Commission is to be taken over it must be taken over as a whole." Have you anything to remark upon that or any opinion to express?—I entirely concur (if a subordinate officer may use that expression of an opinion given by his official superior) in the observations offered to the Committee on that subject by the Chief Commissioner; and, perhaps, to make the meaning of my concurrence, so far as it is to be expressed, plain, I may make a few observations.

2057. I will put this question to you in the first place: in the Chief Commissioner's observations from the experience derived by you as fulfilling the duties which you described to us at the outset of your examination?—Not only that, but also from the whole of my experience since the year, I may say, 1869, long before I was secretary.

2058. From experience gained during your whole career as public servant?—So far as educational endowments are concerned.

2059. Now perhaps you will proceed with what you have to say?—Speaking then, first, of the first of my two divisions of the business, as I understood it, which would come before the Charity Commission, namely, dealing with endowments which are non-educational, as I have just said, I do not think I need propose to add anything to the answers given by the Chief Commissioner, except to say (this is not in conflict with or criticism of those answers, but only to make my meaning clear), that it appears to me that if there is to be more Parliamentary control in this part of the business which will come before the Commissioners, it had better be by ministerial responsibility to Parliament than by direct superintendence of Parliament itself; by ministerial control over the Commission and ministerial responsibility to Parliament rather than by the immediate and direct superintendence over our work, of Parliament itself.

2060. Now let me take you, please, to the answers given by the Chief Commissioner to Questions 174, 175, 176, and 177; those relate to the points of momentum to be derived from political support of the party in power; to obtaining money from the Treasury: to getting work through Parliament, and to obtaining assistance by new legislation, on all of which the Chief Commissioner in those answers gave his opinion in the terms there employed. Have you any observation to make with reference to those very important matters?—No; I do not think I can add anything to what was said by the Chief Commissioner on those matters.

2061. Now, we come to the second of your

Chairman—continued.

divisions, that is to say, dealing with endowments or charitable trusts which are educational; will you give us what you desire to say upon that?—What I would desire to say upon that matter is this: I look forward to an organisation or administration of secondary education in England soon, somewhat like what has been done in Wales, though necessarily differing in important details; and I feel (though, of course, I must express myself with hesitation on an important political matter like this) much doubt whether the country will be satisfied that such organisation or administration shall be independent of a Minister of Education.

2062. You will remember that in 1884 a Committee of this House sat to inquire into the administration and constitution of the Science and Art Department of the Education Department?—Yes.

2063. Do you remember that Mr. Richmond, a Commissioner, was examined before that Committee?—Yes, I do.

2064. May I take you to Question 1602 of that Committee: will you read it?—The question is this: "Then I gather it to be your opinion that it would be desirable to constitute a Ministry of Education instead of as now a Department of primary Education, and that the Minister of that Department should have charge of it in Parliament, and towards Parliament should be responsible for the whole of the education of the country?" and the answer is: "That is a very large question, on which I have no authority to speak; but I should certainly, speaking generally, be disposed favourably to a complete Ministry of Education."

2065. Now let me take you to the answer given by the Chief Commissioner to Question 309 before this Committee; will you read the answer to that question?—The question is this: "The powers of the Council are, of course, exceedingly wide; I do not mean the statutory powers; but the Privy Council may put a finger in almost any pie, and therefore if you chose to make the Lord President the head, might not that do?" and the answer (I am quoting from an uncorrected copy) is: "Yes, that is very much what I think, that there should be a great officer of State who should have all education under him; and that is, no doubt, what we are coming to."

2066. Do you contemplate the state of things that is indicated and approved by Mr. Richmond in 1884, and by Sir Henry Longley, the Chief Commissioner in 1894, in those answers?—Generally; and so far as I have any authority to speak on such matters, I do.

2067. Now, supposing such a state of things arose, as such organisation or administration must hinge upon the endowed secondary schools of the country, what would follow if it were subject to a Minister?—Either, it appears to me, a separation must be effected between the legal and the educational administration of an educational charitable trust, or the legal as well as the educational administration must be placed under the Minister.

2068. What do you say to the first of those courses?—I think that the first of those two courses,

Chairman—continued.

courses, namely, to endeavour to effect a separation between the legal and the educational administration of an educational charitable trust, would be in the very highest degree inconvenient and contrary to the best interests of the public service.

2069. Could you give us some reasons for that?—I think that the experience which was derived by me, and, I think, I might say, by others, from the time when the working of the Endowed Schools Acts was in the hands of a different Commission from the Charity Commission, points to that conclusion. The difficulties which arose at that time were very serious indeed. The reduplication of work, from constant and frequent reference backwards and forwards between the educational authority and the legal authority, could hardly be appreciated except by a person who, like myself, practised for several years daily in that work. And you will observe that this illustration is an illustration which would receive considerable additional weight if you applied it to the ordinary daily administration of an educational endowment. That difficulty and that confusion arose from the separation between the scheme-making power under the Endowed Schools Acts, which, as I have endeavoured to point out to the Committee, is directed only to only one particular object, in regard to the educational administration of a charitable trust, and the other or legal administration of that trust. That difficulty would be, in my humble opinion, immensely increased if it were attempted to divide between the legal and the educational ordinary administration apart from the Endowed Schools Acts of an educational charitable trust, though I think the illustration derived from the experience under the Endowed Schools Commission bears on the point. Similarly, there were two occasions after the transfer of the powers of the Endowed Schools Acts to the Charity Commissioners, when those who were working the Endowed Schools Acts in the Charity Commission were under a separate roof from the rest of the Charity Commission. The inconvenience which was felt then (though not to be compared with that which was felt when there was a separate Commission) from the mere physical fact of those who were working the Endowed Schools Acts being under another roof from those who were working the Charitable Trusts Acts, was in my recollection (and I think my opinion would be confirmed by the Commissioners who recollect what went on then both in the Endowed Schools Department and in the other department) very troublesome and serious. I think I may put that before the Committee as one, however imperfect, piece of evidence in support of my contention.

2070. Now, in regard to your relations with the Education Department?—Our relations with the Education Department and the Science and Art Department (I speak of course only of secretarial relations and the relations with the ordinary staff of that Department, matters within my own knowledge, I do not travel beyond that) are excellent. There is no difficulty whatever in communications taking place as regards the staff of the Education Department and the Charity

Chairman—continued.

Commission. Our officers go over there to see them, and their officers come freely over to see us, and relations which may be described almost as those of friendship, certainly of the greatest friendliness so far as the working of Public Departments is concerned, exist between us. Nevertheless, considerable difficulty arises in regard to a matter in which there is some intermixture of our jurisdictions; though this difficulty again is not to be compared, in my humble opinion, in point of magnitude with what would arise if an attempt were made to separate between the ordinary legal and educational administration of an educational charitable trust, yet still I will mention it, with your permission, as illustrative.

2071. If you please, fairly briefly?—I will mention it just in outline. Under the 14th section of the School Sites Act, 1841, this is provided: that where it is desired to sell or exchange land or buildings of a school subject to that Act, for other land or buildings suitable to the purposes of the Trust, so that a school may be provided to be used for the purposes of that trust, no sale or exchange thereof shall take place without the consent of the Secretary of State for the Home Department; and, by an Act of 18th and 19th Victoria, chapter 131, an Act to render more secure the conditions upon which money is advanced out of the Parliamentary grant for the purposes of education, it is provided that no sale, exchange, or mortgage of the premises in respect of which such a grant has been made shall be valid unless either the consent of the Home Secretary in writing is obtained or the grant is repaid to the Commissioners of the Treasury.

2072. Do not take us through too many Acts of Parliament, but put it briefly in your own language?—Then shortly it comes to this: that in the case of an elementary school having only a site settled to charitable uses, that is to say, for the purpose of elementary education, the control and consent and approval, of course, of the Education Department are required for any moving of that school as an educational authority; but in every case, except where the 14th section of the School Sites Act, 1841, renders it unnecessary for the Charity Commissioners to act, which is most limited in its operation, the authority of the Charity Commissioners is required for the operation; and, in point of fact, although we have by co-operation with the Education Department established as well as we can a precise and carefully-defined regulation for mutual proceedings, very considerable difficulty is constantly felt owing to the fact that two departments have to work upon the same matter. I mention that as an illustration. And that difficulty arises first from our not having mutual knowledge of everything that we are doing; and, secondly, from the difficulty of arranging and distinguishing the exact point at which each department shall begin or intervene.

2073. Now will you go on, if you please. I thought you were going to give us a concrete illustration of that?—No, I do not think it will be necessary.

2074. Will you proceed?—It appears to me, rightly

Chairman—continued.

rightly or wrongly, that that difficulty would be so greatly increased in the case, for example, of a grammar school or other secondary school having an important site, great buildings, a large staff, and a considerable *corpus* and income from endowments, that it would so harass those in the country who have to administer these trusts, and would lead to such a frequent recurrence of what I may call deadlocks, that it would be intolerable to the public.

2075. Could you give us any concrete illustration of any particular case, to emphasise your opinion briefly?—I have in my mind a case where the governing body of such a foundation desires after consideration to move the school; that is not a very uncommon case; they desire to move the school from the site where it is now to another site. The first question which would arise in the mind of the clerk to the governing body, who in an important foundation is generally a solicitor, is: "Whom am I to go to; is there any authority in London to whom I must go before my governing body can do what they wish?" As things now are, the governing body comes to the Charity Commission, and under the same roof, if not in the same persons under the same roof, and close together, are all those who have to deal with the matter, both from a legal and an educational point of view. Now I am supposing that there were two authorities; I am supposing that this is a case where a scheme has been made under the Endowed Schools Acts, and by provisions of the scheme, as well as by the general law of charitable trusts, the sanction of the Charity Commissioners is required for selling or otherwise disposing of the existing site and buildings which are corpus of the charity, and for acquiring by purchase, and raising the money for placing the school upon a new site; which are proceedings either outside the scope of their trust, or which by the terms of the scheme are expressly referred to the authority of the Charity Commissioners. Now I will suppose that there is one authority in Downing-street, and another authority in Whitehall: I am not supposing them to be far apart. The first question which this solicitor would have to consider is, "Which authority shall I begin with; this is a partly educational question, and a partly legal question; shall I go first to the Educational Authority and ask them whether they will approve of this being done from an educational point of view; or shall I go to the legal authority and ask whether the rules of charitable trusts will allow it to be carried out?"

2076. I do not think you need pursue this in great detail; we can all imagine it?—I will not go further except to say, generally, that questions of title, questions of plans, questions of borrowing and mortgaging, questions of surveyor's report or reports, educational or financial, questions of cost; all those questions would come up in a double aspect and before two departments; and the slight experience which I have already mentioned where matters have had to be dealt with by two departments leads me to conclude that the embarrassment of country correspondents and those in the country endeavouring to administer such a foundation, would be simply intolerable.

Chairman—continued.

2077. Do you wish to convey to us, as your deliberate and well-considered opinion, that you cannot separate the legal and the educational administration of secondary education?—Of secondary education so far as endowments are concerned, yes.

2078. In other words, that if the educational administration is to be carried to a central department under a Minister, the legal administration must go with it?—Of endowments, yes.

2079. Now, there would be a difficulty in the matter, would there not?—Those who advocated the transfer of the legal as well as the educational administration of endowments for secondary education to a Minister, would have a most serious difficulty to deal with, a very serious difficulty.

2080. In what would that difficulty consist?—I think I may define it as consisting in the proper adjustment of the relations between the Minister and what is sometimes termed "the judicial work of the Charity Commissioners."

2081. Now, will you give us some idea as to what this so-called judicial work consists of; will you summarise it?—There is, first, the construction and application of Acts of Parliament, as to the greater part, though not the whole, of which I do not think I could contend that the Charity Commission is different from every other Department of State. Every Department, of course, has to construe and apply Acts of Parliament, and for that purpose is furnished, either inside the department or outside, or both, with proper legal assistance. But the Charity Commissioners have to apply some of their Acts of Parliament, and on certain matters, subject to a direct statutory provision for an appeal against their decisions to a court of equity; and in that branch of the Charity Commissioners' work, in construing and applying Acts of Parliament, they stand on a somewhat different basis from other Departments. But that does not, in my humble opinion, represent the real strain of the difficulty. It is in what I may venture, for want of a better word and subject to correction, to describe as the Chancery practice of the Charity Commissioners, such as (though I shall not attempt to give an exhaustive account of it) the construction of instruments such as schemes, deeds, and wills, creating or varying Charitable Trusts, and the consequent control and direction by schemes, orders, and other documents under seal, and still more by mere written communications, deriving their force from the fact of the order or scheme lying behind, and being capable of being made in case of difficulty; that control of the administering trustees and other officers of charities; and I venture to think that those, if there be any, who advocate the transfer of the legal jurisdiction of the Charity Commissioners over an Educational Charitable Trust to a Minister of Education, will have to show what are to be his relations to that practice, and how those relations shall be defined. All the work that is done of this kind (which I have not attempted to exhaustively describe) by the Charity Commission, is done with reference to the Chancery Division of the High Court. Everything that they do in that branch of their business

Chairman—continued.

business is done with the constant sense of responsibility to their superior, the Court——

2082. Would you give me a reference to the section in the Charitable Trusts Act which requires that?—That section, which defines one of the most important parts, though not by any means the whole, of the Chancery practice of the Charity Commission, is the second section of the Charitable Trusts Act, 1860. "The Board of Charity Commissioners for England and Wales, subject to the restrictions and rights of appeal hereinafter provided, shall have power from time to time, upon the application of any person or persons who, under the 43rd section of 'The Charitable Trusts Act, 1853,' might be authorised to apply to any judge or court for the like purposes, to make such effectual orders, as may now be made by any judge of the Court of Chancery sitting at chambers, or by any county court, for the appointment or removal of trustees of any charity, or for the removal of any schoolmaster or mistress or other officer thereof, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate belonging thereto, or entitling the official trustees of charitable funds, or any other trustees, to call for a transfer of and to transfer any stock belonging to such estate, or for the establishment of any scheme for the administration of any such charity." Continuing my answer, I say that everything that the Charity Commissioners do in this branch of their business is done with the constant sense of responsibility to their superior, the court, to whom they may, at any stage in the work, have to go, either on their own reference (such as by a certificate to the Attorney General) to enforce their directions, or on an appeal to the court against their decisions. Now appeals to the court against formal Orders of the Commissioners are not frequent, because they have not in the past been successful; the Commissioners have prevailed.

2083. Before you go to that I will ask you this question, which Mr. Howell has put: we could have a return of these appeals, and their results bringing up the former return which was made up to date, could we not?—This is a different set of appeals from those to the Judicial Committee.

2084. Then will you proceed?—I am speaking now of the Chancery Division of the High Court of Justice and the Superior Courts up to the House of Lords.

2085. That information which we have in the Blue Book of 1886, with regard to appeals, can be brought up to date?—Certainly; I will undertake to do that.

2086. When I interrupted you you were explaining why the appeals were not frequent?—They are not frequent, I think I may say, because they have not been successful; but I venture to suppose that if the judgment and discretion of the Commissioners in their daily practice were interfered with by the executive those appeals would become much more frequent. Then I should add that the much more frequent references, or threats of references, by the Commissioners to the Court through the Attorney

Chairman—continued.

General, would cause a serious difficulty in the case of the legal administration of an educational endowment being transferred to a minister. If those references, or threats of references, by which the Commissioners cause their jurisdiction to be effective were interfered with by a minister, they might of course be checked; the references or threats of references would not be made; but I venture in that case to suppose that the public would soon discover the fact, and that the immediate result would be a weakening of the authority of the Commission, with the consequence of irregularities and abuses in the administration of the charities such as the Commission was created to stop and remove.

2087. With regard to that it was the public exposure of the irregularities and abuses in the administration of the charities by being brought under the notice of Parliament that really led to the Charity Commission being set on foot?—Yes.

2088. As we have heard from the Chief Commissioner?—Yes; coupled with the expensiveness of the remedy, which is part of what you say.

2089. You have said that the public would soon discover the fact. In your opinion, is it not the case that when the public discover the fact where irregularities and abuses are going on under our system of government, the attention of Parliament is called to it, and a remedy is sought and found slowly but pretty surely?—You, Sir, will be a better judge than I am as to whether the remedy is found; but it is undoubtedly sought.

2090 You are aware, of course, that in some quarters dangers are anticipated of what has been called political pressure if these functions are placed in the hands of a political minister; have you anything to say to us on that?—I feel that that subject is somewhat beyond the range of my own knowledge and experience; and I would only say this upon it: that if the Charity Commission is put under a Minister his relations with that branch of the work which I have endeavoured so imperfectly to describe must be carefully adjusted and restricted. He must not only have at his side for that part of the work trustworthy and experienced legal experts, and he must not only be in a position to say if and when pressed in Parliament on such matters, "I am advised that so-and-so is the law," but he must be prepared, I cannot help thinking, to defer in certain matters to those who are at his side as legal experts, unless he is prepared to have judgment against him in a court of equity. If the Minister can and will maintain that attitude it may be that this difficulty is soluble. But I think I may, perhaps, have said enough to make my meaning clear to the Committee when I say that it appears to me to be a very serious difficulty.

2091. Have you anything further to add upon that part of your evidence?—No.

2092. Now, I will just take you for a few minutes to the question of giving the Charity Commission "more effectual means of dealing with the business which will come before it." You have dealt with that to a certain extent?—Yes.

2093. Have

Chairman—continued.

2093. Have you anything further which you wish to say to us on that?—If I put out of consideration all expectation of an organisation of secondary education——

2094. For the moment, you mean?—For the moment, if I put out of consideration all expectation of an organisation of secondary education (which was the key to the observations that I have offered to the Committee so far) and contemplate only the continuance of the Charity Commission on its present lines with such development of its work as will be produced by the passing of further Acts of Parliament affecting it, such as the Local Government Act, 1894, and by the incessant creation of new charities, I think that what is chiefly required in order to give the Commission more effectual means of dealing with the business which will come before it is this: first, the abolition of what has been described, and is probably familiar to this Committee, as the 50*l.* limit on the initiative of the Commissioners under the Charitable Trusts Acts; that is to say, the repeal of the first part of the 4th section of the Charitable Trusts Act, 1860. As regards legislation, that appears to me to be the key to economy, consolidation, and progress in the work of the Commission.

2095. From your experience in the matter, do you entertain much hope of legislation on that subject under present circumstances?—Past experience seems to me to show that, as at present constituted, the Commission is not strong enough to obtain that legislation.

2096. You have not the Parliamentary momentum necessary?—It seems to me so.

2097. What is the next point you wish to mention?—The second point is a concordat with the Treasury as to the organisation of our department.

2098. A "concordat" means to a certain extent a treaty of peace between persons who are at war?—If I have used a word which at all suggests a state of war I should like to be permitted to withdraw it; but there is in my opinion no service which this Committee, apart from the recommendation of legislation, could render to the Charity Commission in discharging the business which will come before it more important than providing an agreement between the Treasury, our superior office, and the Charity Commission as to the additional means for doing our work which we require.

2099. You mean financial aid?—I mean staff—augmentation of staff.

2100. Involving financial aid?—It involves a certain, though not a considerable, amount of financial aid.

2101. I suppose you desire to supplement and endorse what has been said by the Chief Commissioner, that you have not at present the Parliamentary momentum necessary to enable you to get sufficient aid from the Treasury?—I should not desire to make any comment on that.

2102. What is your next point?—Upon this matter I speak under correction of the Chief Commissioner, who will have, I apprehend, an opportunity of correcting me if he differs from the view I am about to express; but, subject to any such correction, I do not consider that we require an augmentation of the upper part of the office. It does not press upon me, for example (though I should not like to limit myself too strictly), that we require more clerks of the upper division. What I think we chiefly require, at any rate at the present moment, is a more effective gradation and organisation, and an increase in numbers of the clerks of the second division. In fact, what we desire, or at any rate what presses upon me, and strikes me from my knowledge of the office, and subject to correction, as what we desire and want, is the application to our office of the provisions of the 36th and 38th paragraphs of the Treasury Minute of the 10th of August 1889, on the second Report of the Royal Commission on Civil Establishments; organising our second division, giving the position and status to the best men of that division, which is required in order that they may control the younger and less experienced men of the division, and helping us to economise the time and the brain power, and the payments of superior men. If we could obtain that, the creation in the second division of our office of a reasonable number of staff officers in pursuance of that Treasury Minute, and so organise our second division, I think we could meet, as far as I can at present see, nearly all the demands of the public in respect of the three great matters in regard to which the public appear to be now making demands.

Chairman—continued.

2103. Just mention them, if you please?——Arrears, statistics, and accounts of trustees of charities.

2104. Have you anything to say with regard to the audit of accounts?—That is the main thing in respect of accounts.

2105. I do not want you to go into that at any great length if you can do it in two or three sentences?—It appears to me that an effective audit consists of two parts; first, the power to require the production of documents, and to interrogate; and secondly, the power to surcharge or disallow, to the cost of those who have made the irregular disbursement; that is what I understand to be meant by an effective audit. Now the first of those powers we have to the full, but we have not got the staff to work it. We have fully the power to require the production of documents and to interrogate, but we have not the staff to work it. The second power we have indirectly by certifying to the Attorney General, and we use it sometimes, and still more often the threat of it; but we have not got the summary power of surcharging, and it is a very great question whether any such summary power would ever be given to a body such as ours. I think what in this respect we require is some better provision than that of the 44th section of the Charitable Trusts Act, 1855, which I think is not a really effective provision for our purpose; it is a weak provision; it directs trustees, over whom we have control, to send accounts to another body over whom we have no control whatever; and that other body over whom we have got no control whatever is to make public the accounts.

2106. Here again we come to legislation; you want more provision for legislation, which at the present

Chairman—continued.

present moment is at a dead-lock so far as your Commission is concerned?—I think I may say so.

Mr. *Howell.*

2107. You referred in your answer to sending the accounts to some "other body;" will you name the body?—It is this: by the 44th section of the Charitable Trusts Act, 1855, the trustees of certain charities, which are not defined except by the word "parochial" charities, with a statement of what is meant by parochial charities, are to give a copy of the accounts to the churchwardens of the parish, and it is the duty of the churchwardens of the parish to lay those accounts before the vestry. Now the trustees we have control over, but the churchwardens, unless they happen also to be trustees, we have no control over.

Chairman.

2108. Now with respect to your departments, are any of your departments, and if so, what departments at the present time, overburdened, in your opinion, referring to the letters which you gave us as those by which the different departments are known?—Yes; I think all the departments in the office are worked up to, and perhaps exceeding their powers; but I should like to speak particularly of the departments of which I have special knowledge of as secretary. I have been aware for some time that we have reached the maximum of work that can be got out of the subordinate staff in the O. and R. departments; that the men are becoming overworked; that the

Chairman—continued.

pressure under which they labour is tending to a deterioration of their work. I mention those two departments, partly because I know them best, and partly because, as the result of that knowledge, they appear to me to be the most overpressed; partly also because the pecuniary interests at stake in the O. department, where there are over sixteen millions of stock to be dealt with, are so great; and as regards the R. department, because that is the driving-wheel of the whole office, and if that is overburdened, the whole office is dislocated.

2109. And do you with your great experience desire to put before us advisedly that the work in these departments is deteriorating?—I think it has a tendency to deteriorate, from the simple reason of over-pressure. It is impossible for me to exaggerate the faithfulness, and the industry and the ability with which these men do their work; but the effect of over-pressure, I think, has a tendency to deteriorate the work.

2110. I just want to get on the minutes what these departments are?—The O. department is the department of the official trustees of charitable funds; the R. department is the Registration department into which the letters come, and out of which they go.

2111. Is there anything else which you desire to say with regard to the over-burdened nature of the departments?—I think I have said enough to bring the general situation before you.

2112. Have you any suggestions to make to the Committee?—I think I have made the principal suggestions that occur to me.

Wednesday, 30*th May* 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Jesse Collings.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Freeman-Mitford.
Mr. Howell.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS IN THE CHAIR.

Mr. DANIEL ROBERT FEARON, C.B., re-called; and further Examined.

Sir *Stafford Northcote.*

2113. CAN you say whether steps are being taken to render the return of accounts made to the Commission more complete?—Yes. Certain changes have been made in the staff of the Accounts department, which required a little time to carry out effectively; and, after those changes had been made, the general object of the changes being to endeavour to secure the more complete and regular return of accounts, I, under the direction of the Chief Commissioner, went through the department myself minutely, giving up, I think, two or three days to it, so as thoroughly to understand the mode in which the business was done. As the result of that investigation, I made a report to the Chief Commissioner and the Board as to what appeared to me to be the principal things required to be done in the department, in order to prepare for a complete return, a systematic return, of the accounts. The Board on, I think, the 17th of April last, having considered what was reported to them, passed a minute, and I think, if you will allow me to read it, I will do so. This is entered in the minutes of the Board of the 17th of April 1894, under the head of "Register of Accounts." "The Board considered the question of the measures proper to be taken for the purpose of providing that an annual or other periodical return of all charities subject to the jurisdiction of the Commissioners under the Charitable Trusts Acts, the accounts of which are in arrear, should be presented to the Board, and for this purpose directed that a new register should be prepared in G department," on a certain plan, which is described in that minute in detail, and with which perhaps I need hardly trouble you. That minute of the Board, as, of course, all other minutes of the Board, it was my duty as secretary to see carried out; and steps have been taken accordingly, as the result of which I have a most confident hope that if we can get that slight increase of staff in that department, which the Committee has already permitted me to mention to them, it will not be long before the Commissioners are made aware, more or less completely, of all charities which ought to render accounts and are in arrear with them. If, in addition to that, our staff is so increased that those accounts, when received, can be carefully examined, and the necessary communications made in respect of anything that requires comment, or any irregularity, I hope that the demands of the public on the subject will be met, and what the Commissioners desire shall be done in respect to return of accounts will be completely carried out.

Sir *Stafford Northcote*—continued.

2114. I observe, from paragraph 5 in your Forty-first Report, that the number of returns of accounts of charities is increasing; but I suppose that you are not able to say what proportion of the charities under your jurisdiction do not at present send in accounts?—I can only say that very roughly. If you will allow me, I should like to guard myself by saying that there is a very great difficulty in this matter on account of the constant amalgamation of charities which is going on by orders and schemes of the Board. The central scheme for the City Parochial Foundation of London, for example, has united into one foundation a vast number of charities. There is also another difficulty, namely, that new charities, as the Committee has already been told, are constantly being created; so that to say what proportion of the charities which ought to render accounts do so, you will perceive, is a very difficult thing statistically. But as you have referred to the 5th paragraph of the Forty-first Report, I see that the paragraph states that the number of returns of accounts of charities which have been made to the office during the past year is 31,325. That is, you see, a decided increase on the numbers in recent years, in spite of the steady increase of charities, and in spite also of the large amount of statistical work having to be done by that department;

Sir *Stafford Northcote*—continued.

department; and not very long ago I had occasion to make a rough estimate of the probable total number of charities subject to the jurisdiction of the Commissioners under the Charitable Trust Acts, and I came to the conclusion, speaking roughly, that it exceeded 60,000. The estimate was roughly made; but if that conclusion was right you will perceive that the 5th paragraph of that report would indicate that more than half the charities return the accounts.

2115. With your present staff you are, practically, unable to make any examination of the bulk of the accounts sent in to you?—Of the bulk of them, certainly.

2116. I do not know whether you have given the Committee what increase of staff you would require to be able to deal properly with these accounts?—I have not given it in figures, but I think, so far as my examination and investigation of the matter has gone, that it is really only a question of a very few second division clerks in that department. Of course the honourable Baronet will see that it is difficult to say the exact number required until you come actually to do the work; the actual doing of the work shows one best what is wanted; but on such a rough estimate as I have been able to make I am of opinion, at present, that a very small number of second division clerks added to that deparment will enable the department, to a very large extent, to examine the accounts.

2117. Then with regard to the question of the audit of accounts, I think the Chief Commissioner said that it would be impossible for the Commission to undertake such audit themselves; have you any suggestion which you could make as to how a satisfactory audit, and especially of small charities, could be obtained?—No; I am disposed to think myself that is again a question of staff. I have already mentioned to the Committee what appear to me to be the principal requirements for an effective audit, and without troubling the Committee to go through those again I may say I do not think myself (though I may be mistaken in this) that the amount of irregularity or misappropriation of funds of charities is at all considerable. I am strongly disposed to think that with an increase of staff and some amendment of the 44th section of the Charitable Trusts Act, 1855, the public would find that all that was required for the present, at any rate, was done. Shall I mention what that amendment is?

2118. Yes, if you please?—There is a provision always made in schemes made under the Endowed Schools Acts to this effect: "That the Governors of the Foundation which is regulated by the scheme shall make out and render to the Charity Commissioners such accounts as shall be required by such Commissioners, and shall also on rendering accounts for any years to such Commissioners exhibit for public inspection in some convenient place in the locality copies of the accounts so rendered for such years, giving due public notice where and when the same may be seen, and shall at all reasonable times allow the accounts, so rendered for any year or years, to be inspected, and copies thereof or extracts therefrom to be made by all persons applying for the

Sir *Stafford Northcote*—continued.

purpose." The great defect, in my opinion, of those provisions of the 44th section of the Charitable Trusts Act 1855, which are intended to secure public knowledge of the accounts of certain charities is, first, that before you can tell whether those provisions apply in any particular case you must define a parochial charity, because the provisions only apply to parochial charities; secondly, that the requirement of the Act is binding only at the beginning of the proceedings on persons over whom the Commissioners have any jurisdiction, namely, trustees; and that the real carrying out of the measures necessary for publicity of the accounts is laid by the statute on persons over whom the Commissioners have no jurisdiction, namely churchwardens. If a statutory amendment of that section were made so that it was required by Act of Parliament that all trustees of all charities should place a copy of the accounts in the locality concerned, not necessarily printed, because some of these charities, as you know, are only 20*s.* or 30*s.* a year in value, but a copy of the accounts as rendered to the Commissioners, if they were required to put it in some public place and it was well known in the locality where those accounts could be found, I think that by means of the complaints which people would make of anything wrong in the accounts or anything they did not understand, an effectual check would be placed in regard to these small charities upon irregularities. That is the only suggestion I have to make in regard to that.

2119. There was one point, I think, which rather arose out of your evidence the other day, which I should like to ask you a question on, and that is how far in schemes under the Endowed Schools Acts it is in the power of any single Commissioner to bind the Board?—As the Committee has been told, a Commissioner can initiate proceedings under the Endowed Schools Acts in his district without the authority of the Board; but he would not be able to proceed far in the matter without the authority of the Board, because he has at a very early stage in the proceedings to bring before the Board a document which has already been mentioned to the Committee, called "Heads of Scheme," and the Board may, and has, in fact, done so, direct the proceedings to be dropped. So that although a Commissioner can, of course, initiate the proceedings, and though it is comparatively rare that those proceedings are directed to be dropped, it is a fact that the Board keeps control, and the Chief Commissioner, under the special responsibility he has under the Act of 1874, keeps control over the proceedings from the very earliest stage.

2120. Would you tell us how long an ordinary scheme under the Charitable Trusts Acts, and also under the Endowed Schools Acts, assuming it to be moderately criticised, but not seriously opposed, takes from the time of its initiation till it comes into effect?—A scheme under the Charitable Trusts Acts which is not contentious, not opposed, as far as the procedure is concerned, might take effect in something under two months, I think.

2121. Under the Endowed Schools Acts it is much longer?—Under the Endowed Schools

Sir *Stafford Northcote*—continued.

Acts it is much longer. You will quite understand that this is a question of statistics which I have not estimated, but I think that a scheme under the Endowed Schools Acts, however uncontentious, is hardly ever passed under a year, and sometimes takes several years to get through.

2122. I believe that since I had the honour of being connected with the Commission, some modifications in the arrangements have been made with the Parliamentary Commissioner on matters which do not reach the stage of putting questions in the House of Commons?—Well, the practice is substantially the same as in your time, but I think I shall be correct in saying that since the institution of the Parliamentary Commissioner, as a separate official from the Vice-President of the Council, the concern taken by Members of the House in the work that our Commission is doing, and the number of inquiries which do not reach the point of questions in the House of Commons, has greatly increased. The consequence of that is that a practice is more or less informally now established by which a large number of inquiries by Members of the House, through the Parliamentary Commissioner, are satisfied by the Secretary communicating with the Parliamentary Commissioner without its being necessary to trouble a Commissioner; but you will, of course, quite understand that if any one of these inquiries comes near to the point of what the Commissioners will do in a matter, or what they will decide, the Secretary immediately asks the Parliamentary Commissioner, if he has not already done so, to see the Commissioner in charge of the case or the Chief Commissioner. There is a very large number of questions asked of the Parliamentary Commissioner, and communications made to him which never get near to the stage of questions in the House, and which are often matters of mere formality of procedure with which it is not necessary to trouble superior members of the office.

2123. With regard to your answer to Question 2101, if I may refer you to that, you said that you would rather not go into the question of the Parliamentary momentum necessary to enable you to get sufficient aid from the Treasury. The momentum that is necessary to enable you to get money from the Treasury is quite distinct from that kind of momentum which is required to pass schemes through Parliament?—Yes.

2124. It might be very much to the advantage of the Commission to have a strong Minister who could squeeze money out of the Treasury; but is it in your judgment the case that for want of momentum your schemes are not pushed by the Government of the day with sufficient vigour through Parliament?—The schemes which go through Parliament are already, as the Committee has been informed, subject to approval by a member of the Ministry. The ordinary schemes of the Commissioners not made under the Endowed Schools Acts, do not go to Parliament at all.

2125. But your schemes under the Endowed Schools Acts have to be adopted by a high Parliamentary official; do you think that a new Parliamentary official is required to push those schemes through the House?—No, I do not desire to suggest any change in respect of the schemes under the Endowed Schools Acts.

Sir *Andrew Scoble.*

2126. I should like to ask you a few questions with regard to the organisation of the office. I think that you named altogether ten departments, including the Secretary's Department?—Yes.

2127. Now four of those departments, A, B, C, and D, are in charge of individual Commissioners, are they not?—Yes. But directions to D are given by all the five paid Commissioners.

2128. And as to the other six, are they practically worked by the Chief Commissioner and the Secretary?—Yes.

2129. And the board only interfere in cases where interference is expedient or necessary?—Yes.

2130. Now, with regard to the Secretary's Department, you told us that you have many references from outside bodies. In addition to those you mentioned, do you not also get references from the colonies and from India?—Yes.

2131. And are those references tolerably frequent?—My experience only dates back to 1886, not quite 10 years; but, speaking first of India, we have had during that time a certain amount of reference, which, however, I believe was special to that period; I do not think it occurred before, and it has not occurred again since.

2132. Then, with regard to Department O, you stated the amount of investments held by the Official Trustees and the number of accounts; will you tell me what the yearly income is approximately with which you have to deal in that department?—The greater part of the funds standing in the name of the Official Trustees consists of Government Stock. I gave the total amount of those funds in my former examination.

2133. Yes; I only want the income?—I cannot say without reference the exact amount, but you can gather it approximately from this: that more than half, considerably more than half, of the capital consists of Government Stock.

2134. That is quite enough for my purpose?—I find that it is stated in page 32 of the Forty-first Report of the Commissioners at 479,901*l.* 14*s.* 1*d.* for the year 1893.

2135. The distribution of this income among all these accounts is therefore, I presume, a complicated and troublesome matter?—Yes.

2136. Is any fee levied upon the administration of these funds?—No.

2137. Do you individually see any reason why a fee should not be levied?—I see no reason, except perhaps an increase in the difficulty of procuring the transfer of charitable funds into the name of the Official Trustees of charitable funds, and a possible consequent diminution of the security of the funds. I at the present moment see no other objection.

2138. If fees were authorised by Parliament, that would get over to a considerable extent the difficulty which you now have in getting a sufficient grant to increase your staff, would it not?—Yes.

2139. Has

Chairman.

2139. Has a suggestion ever been made to impose fees?—Yes, and the Commissioners have signified to the Treasury their willingness to consider and fall in with any plan that may be proposed to Parliament to that effect. The matter in fact I believe lies with the Treasury.

Sir *Andrew Scoble.*

2140. Now with reference to the audit of charitable accounts?—You are speaking now of the audit of accounts of charities?

2141. Yes?—Am I right in inferring from what you said, that you would wish to see a power given to the Charity Commissioners similar to that exercised by the Local Government Board with reference to the audit of Poor Law accounts?—No, I myself do not. I speak under correction, but the way in which it strikes me is briefly this: The audit would be a very expensive thing I think, a very troublesome, lengthy, and expensive process; and I do not myself believe that the result would be worth the trouble or the expense. I believe that, owing to the fear and dread of misappropriation of trust funds which has been built up by the Court of Chancery for the last 300 years in this country, a breach of trust is a most rare thing; and, further, that an actual irregularity is a very rare thing: and where an irregularity does take place it takes place in the case of very small charities administered gratuitously by country people who do what they do from want of knowledge. I do not on the whole myself believe that the result of a complete exhaustive audit of all charity accounts would show that it was worth the time and trouble and expense of doing it.

2142. And you find that the threat of the Attorney General is generally sufficient to bring in the account in any such case?— Not only that, but the letters which are written without giving the threat, but the meaning of which is well understood by the correspondents of charities are frequently sufficient.

2143. Now, I will go to another matter, the question of Parliamentary representation of the Charity Commission. You were asked about the representation in the House of Commons; there are a number of questions on that point; they begin at 1811. Who represents the Commission in the House of Lords?—In regard to business not under the Endowed Schools Acts, the Lord Chancellor, as the head of the Court which is over the Commissioners; in regard to business under the Endowed Schools Acts, the Government of the day; the part taken in the House of Lords on behalf of the Government of the day having been, so far as my experience goes, ordinarily in the hands of the Lord President of the Council, because the schemes under the Endowed Schools Acts have to be approved by the Committee of Council on Education.

2144. And that I should imagine is a sufficient and satisfactory representation, is it not?—It has not occurred to me to desire further representation than that which we have in the House of Lords.

2145. Then, are your answers to questions in the House of Lords prepared and disposed of in very much the same way by those high officials as they are in the House of Commons by the Parliamentary Commissioner?—The questions in the House of Lords, as far as my experience goes, are extremely rare; so rare that I could hardly form any conclusion on the procedure.

2146. Now, I should like to ask you a few questions with regard to the judicial functions of the Charity Commission. In certain matters I believe I am right in saying that the Commission exercises a concurrent jurisdiction with the Court of Chancery?—Yes.

2147. Can you shortly give us the reference to the Acts which confer special jurisdiction on the Commission?—If you look first at the Charitable Trusts Act, 1853, Sections 16 to 23, particularly Section 23——

2148. The 22nd Section is important also, is it not?—Yes, the 22nd is a very important one as conferring judicial functions on the Commissioners.

2149. I do not want you to give the particulars; we can refer to the sections ourselves if necessary?—The 22nd Section is one.

2150. And the 23rd you mentioned?—The 23rd certainly. May I just say this: the 23rd Section is amended or enlarged by the 31st Section of the Act of 1855.

2151. Then, in the Act of 1860, Section 2 gives very important judicial powers, does it not?—Yes. I should say I am taking the word "judicial" probably in the broadest sense.

2152. Section 13 of the Act of 1860 contains other powers, does it not, of a judicial character?—Yes, certainly.

2153. Then under the Local Government Act of this year certain judicial powers are given, are they not; can you briefly refer us to the sections of that Act?—Yes. I would refer you to these sections: Section 5 (Sub-section 2), Section 14, Section 19, Section 33, and Section 75; all which should be taken in connection with the very important provision in Section 70 (Subsection 2), which leaves decisions in regard to those sections in the first place to the Commissioners, subject to an appeal to the Court.

2154. A direct appeal to the High Court?—Yes.

2155. I believe also that in the schemes which are framed by the Commissioners power is reserved for the Board to determine questions as to the validity or regularity of acts done under the schemes?—Yes, that is so.

2156. And the right of the Commission to insert this provision has been upheld by the Judicial Committee of the Privy Council, I believe?—Yes, and a judgment on that matter directly has been given by the Judicial Committee of the Privy Council in a case which came before the Court on appeal against a scheme under the Endowed Schools Acts; and the report on the case will be found in Law Reports, three appeal cases, page 867.

2157. Then I may take it, I suppose, that the Charity Commission not merely have to construe Acts of Parliament in the ordinary course of their duty, as you have told us, but have also to exercise special judicial functions which have been committed to them by Parliament?—Yes; that

Sir *Andrew Scoble*—continued.

that is to exercise special judicial functions, of which construing Acts of Parliament is only a part.

2158. I suppose there is no Department of State that has not to construe Acts of Parliament from time to time?—Not in my experience, certainly; and to apply them.

2159. But the Charity Commission, I believe, is the only Department of State which, apart from the ordinary tribunals, has the power to give judicial decisions of its own?—I could not say that. I should be disposed to think that decisions in the nature of judicial decisions can be given by other departments. In the application, for example, of the Technical Instruction Act the Science and Art Department has to give decisions.

2160. You do not quite apprehend, I think, what I wish to convey. There is no appeal to the High Court or to the Judicial Committee of the Privy Council from the Science and Art Department?—I am not prepared to say that there is no appeal to any Court.

2161. Is there a direct appeal from the decisions of any other body with which you are acquainted to a Court of Justice?—None, so far as I am aware, expressly provided by statute.

2162. As to the appeal which is given to a judicial tribunal from Orders of the Board, are those appeals upon questions of law?—Yes; I do not think that I could limit them strictly to questions of law; I think they involve questions of discretion also. I do not understand that you wish me to give examples unless you ask for them.

2163. Could you give me any instance in which the exercise of a discretion by the Commission has been called in question before either the Court of Chancery or the Judicial Committee?—Yes; there is a certain charity in the south of England, part of a larger charity, administered by the municipal trustees; that is to say it is a borough charity. Some years ago the Commissioners made a scheme separating part of that charity, which was a very remarkable part of the charity, because the nature of the trust was this; it was for the relief of poor travellers; and any person who came through that place and applied for admission to the institution was supplied with a supper of meat, bread, and porter, and given 4*d.* next morning to send him on his journey. Of course you will perceive that this charity was not for the benefit of the place, because it was only for the relief of those passing through the place; but complaints were made in the locality generally that this institution encouraged vagrants and mendicants of the worst class; and statistics were produced to the Commissioners, and examined by them carefully, which bore out this view. Accordingly the Commissioners made a scheme which provided for alternative modes of applying the funds so applicable which they considered were calculated to obviate the mischief consequent upon the existing mode in which the charity was conducted. In the course of the proceedings, however, it was clear to the Commissioners that the existing trustees would not carry into effect these alternative provisions, and it seemed to the Commissioners desirable to give a preponderating influence in the body of trustees to other persons drawn from a wider area; and they made a provision altering the governing body, changing the constitution of the Trust; and the trustees appealed to the Court against that scheme, by leave of the Attorney General. When the matter came before the Court, acting on the advice of their Counsel, the Commissioners withdrew that portion of the scheme which purported to take this Poor Travellers' Institution out of the sole control of the municipal trustees, being advised as the matter proceeded that the Court would overrule their discretion in that matter. I think that that is an example which bears out what I have said.

Sir *Andrew Scoble*—continued.

2164. I should like to ask you upon that whether, if the action of the Charity Commissioners in all matters were brought more directly under the control of Parliament, as has been suggested, in cases such as the one you have mentioned, cases in which there was an appeal against your discretion, a conflict might not arise between the Courts of Law and the Court of Parliament?—Certainly, if Parliament were to interfere with those proceedings of the Commissioners it is quite possible; though I say that subject to this: that I believe the Courts of Law are extremely careful against getting into conflict with the High Court of Parliament.

2165. But the two tribunals, the Courts of Law and the Court of Parliament, would proceed upon entirely different lines?—Yes.

2166. The Courts of Law would go by precedent, and by legal rules; the Court of Parliament might go upon an impulse of popular enthusiasm; I do not say they would; they might?—With the deepest possible respect for the High Court of Parliament, I suppose it is possible.

2167. In like manner of the department was under the control of a minister instead of under the control of the Board, might there not be a strong difference of opinion between the Minister in charge of the department and the Board itself?—That is possible.

2168. And would not those two considerations I have put to you be strong reasons for leaving matters very much as they are?—I think those considerations illustrate very well the difficulty which I have already dwelt upon to the Committee, but I am not prepared to say that the difficulty is insuperable. I think it is a real difficulty and must be faced.

2169. Do you think it is a difficulty which will be overcome before we reach the Millennium?—I think it will have to be; I think it must be overcome. It follows from what I have already said that I think it must be overcome.

Mr. *Freeman-Mitford.*

2170. I gathered from you just now that your income is 440,000*l.* a year?—The honourable Member is referring to the income of the funds which stand in the name of the Official Trustees of Charitable Funds.

2171. Those are not the sole funds that you deal with as charitable funds?—Certainly not.

2172. Have you any approximate idea how much they amount to?—You mean what is the total income of charities?

2173. Yes?

Mr. *Freeman-Mitford*—continued.

2173. Yes?—I have not that in my mind, nor can I remember at the moment any return of it. I will try and supply it. (*A book was handed to the Witness by Sir Henry Longley.*) This is the nearest thing we have, but this is dated 1877.

2174. Will you let us have that, please?—It was a little over two millions and a quarter then.

2175. You were asked just now whether it would be feasible to charge fees on that for the administration of the charities; what is the total cost of your department as borne upon the Estimate?—£.40,380 according to the Estimate for 1894–95.

2176. We will say 40,000*l.*; therefore, supposing that a little under 2 per cent. was charged upon these funds that you administer, that would defray the charges of your department?—Yes.

2177. You said just now that a very small number of second division clerks would enable you to overcome the work of the accounts?—Of the department of Accounts of Charities.

2178. When you say "a very small number," I do not want to pledge you to any particular number, do you mean from six to 12, that sort of thing?—I was not thinking of so many.

2179. Four; half a dozen?—That is more like the number I was thinking of, that sort of number, four to half a dozen at the most. The honourable Member will remember that I spoke not only of the increase in the number of second division clerks, but of the proper organisation of those clerks by means of staff places.

2180. I am speaking of it more from a financial point of view?—Yes, but that proper organization implies also a slight increase of pay.

2181. You called our attention just now to an interesting case in which there had been an appeal against the scheme of the Commissioners; —Was that a scheme under the Endowed Schools Acts?

2182. I meant in regard to that extraordinary charity you mentioned just now for the encouragement of tramps; do you get many complaints of the decisions of the Commissioners?—No.

2183. I understand you to say definitely that you do not get many complaints of decisions of the Commissioners?—Not many.

2184. Now the other day you said, as I understood you, that you would rather see Ministerial control of the Charity Commission than the direct control of Parliament?—Yes, I did; I remember.

2185. Now what did you mean there by "the direct control of Parliament"?—I meant such control as by a Standing Committee of the House, for example, so that all our schemes should come before the House, either the House itself, or one of its Committees.

Chairman.

2186. As was suggested by the Committee of 1886 in regard to new schemes laid before Parliament?—Yes.

Mr. *Freeman-Mitford.*

2187. Do you think, having regard to the answer which you have given me just now, that you do not get any complaint of the decisions of the Commissioners, that any good end would be

Mr. *Freeman-Mitford*—continued.

served by appointing a Minister as the political chief of your department?—Yes, I do.

2188. Why?—Because I think that it is a necessary condition, as I have already expressed my opinion, to the reorganisation of secondary education in the country. Holding, as I do, that any effective reorganisation of that secondary education cannot be separated from the administration of the endowments of education which form one-half about of the probable sources, I think that it will be necessary to have a Minister over the charities.

2189. What then is to become of the Commissioners?—I have endeavoured to consider this question without any reference to the personal interests either of the Commissioners or of myself. It may be that the answers which my duty requires me to give to you and to other members of this Committee may not have a favourable effect upon myself personally; but I have thought it right to give my answers on this matter without regard to the consideration of the future of any persons.

2190. I meant not so much as that; I meant the composition of your Board, not so much the future of any person?—I do not think it would be possible for a Minister to deal with endowments as well as education (which the Chief Commissioner in his evidence has said would go very well together) without having expert legal advice.

2191. Then you would consider the present permanent Commissioners as the expert legal advisers of the Minister in that case; I am not talking of the present Commissioners personally, I am talking of the office, and not of the men?—I think there must be a board of expert legal advisers; what title they should have and what exact position they should occupy I have not considered.

2192. Now, in answer to Sir Andrew Scoble, you said that your department had to give judicial decisions, I think?—Yes.

2193. That is, I presume, because you are in a different position in regard to the composition of the Commission from any other department of the State?—Yes, there is a class of judicial decisions, I think, which are peculiar to our department.

2194. No other department stands in its composition exactly on all fours with yours; I mean this, that while other departments of the State have either a solicitor of their own or have the advantage of being able to consult the Solicitor to the Treasury, your department has, as it were, its own legal foundation?—No; we have a solicitor and standing counsel, and we take their advice; not so frequently (as I have already stated) as other departments probably, because of the greater legal experience of the leading members of our department; but still we have a solicitor and standing counsel; and both in regard to the interpretation and application of new and of old Acts of Parliament, we do take advice.

Mr. *George Russell.*

2195. I want to follow a little the line which the last Honourable Member has pursued; I want to draw out a few more points, if you please, with reference to this possible constitution of a Department of State. I understood you to say,

in

Mr. *George Russell*—continued.

in answer to Sir Andrew Scoble's Millennial forebodings, that you thought it would have to come to this even before the Millennium comes?—I think there must be a Minister over endowments and education.

2196. Over all endowments and all education?—Yes, I do.

2197. You would make it as comprehensive as that?—I would.

2198. In the ideal Ministry that you have in your mind, you would not make him merely the Minister of Education, and of such endowments as pertained to education?—No, because that would not relieve the Minister, in any serious degree, of the difficulty which I have endeavoured to develop at all; it would put upon the country two charity commissions.

2199. There would be one department, you mean, dealing with charities, non educational; and a Minister of State dealing with charities relating to education?—Yes.

2200. So that you contemplate one Minister charged with education from top to bottom of the system, and with all charitable funds?—Yes.

2201. That would be a very large Department of State, and do you think it would be possible for anyone, however intellectually endowed, to manage that immense mass of business without the assistance of something like a council of experts?—It is because of what I have ventured to call the Chancery practice, and also of what I may describe (with particular reference to the questions addressed to me by Sir Andrew Scoble) as the judicial action of those who deal with endowments, that I think it necessary for that Minister to have at his hand expert legal advice of a permanent kind, and of a high standard in the department.

2202. Then this Minister that you contemplate would be practically the same as the present Vice President of the Council, plus control over all charitable funds?—I should contemplate his being a great Minister of State.

2203. Having those duties which now devolve upon the Vice President of the Council, plus the duties of the administration of charitable funds?—Yes, and also the duties of controlling and directing, so far as it was controlled and directed by the State, secondary education. The Vice President of the Council, at present, is in touch with secondary education through two separate departments, the Science and Art Department to some extent, and the Education Department to some extent; he also has direction of the scientific and art instruction of the country through the Science and Art Department, and of the elementary education of the country through the Education Department; but, except so far as that goes, there is now no organised secondary education of the country, and no Minister is required for it. But looking forward, as I do, to such an organisation, I am unable, myself, to see how it can be thoroughly done except under the control of a great Minister.

2204. I think I perfectly understand your view; you would abolish the office of the Vice President of the Council as he now exists, and the Charity Commission as they now exist, and you would put in the place of the two one great Minister of State ruling education from top to bottom, from the highest down to elementary, and also administering all charitable benefactions?—Yes. I have not gone quite so far as that in venturing to contemplate the changes which should be made, but I take no exception to that.

2205. He would be, as you say, a great Minister of State with most important duties, and he would be assisted, in your contemplation, by a council of experts?—Yes.

2206. Then a question was asked you by Sir Andrew Scoble, how would it be if this Minister and the Commissioners disagreed; well, I suppose, that you would say that your answer to that is, that the Minister of State would be responsible and supreme, and that he would have power to override his councillors?—I imagine so.

2207. I mean that you would not regard your Minister as merely *primus inter pares* of this Board, and one of the members of the Board; but he would be above them, and able if necessary, and, at a pinch, to override them on his responsibility to Parliament?—Yes.

2208. That is all that I have to ask you on that point, the ideal Ministry that you contemplate; but there is one other question that I want to ask, arising out of a question put just now by Mr. Freeman-Mitford. You stated, I think, in answer to him that with regard to the decisions of your Board, you get very few complaints. I am not going into that question again, but I understand you to say that you receive very few complaints with regard to the decisions of your Board?—Very few in proportion to the number of decisions.

2209. But do you receive complaints about your action and conduct in other respects?—Yes, a very large number.

2210. And may I ask what part of your action, or inaction, forms the ground of this multitude of complaints?—Almost everything that the Commissioners and I in the office do.

2211. Do these complaints arise from people locally interested, as a rule, or from benevolent outsiders?—All classes of people; those that have a *locus standi*, and those that have not a *locus standi*.

2212. Are the people that lack a *locus standi* attended to?—Yes.

2213. I suppose then that we may infer from all that, that it is very difficult, or practically impossible, for any great abuse or malversation of any kind to take place without your attention being called to it?—I think so.

2214. That there is plenty of public interest in the matter, and plenty of the spirit of inquiry?—I think that there is a great deal, and that it is rapidly increasing.

Mr. *J. W. Lowther.*

2215. With regard to this ideal Ministry which Mr. Russell has sketched out, I understand what you say to be this: that you contemplate the whole of the educational work of the Charity Commission being under the control of a Minister?—Yes.

2216. Plus the whole of the elementary education work now under the control of the Minister?—Yes.

2217. Plus the Science and Art Department?—Yes.

2218. Plus

Mr. *J. W. Lowther*—continued.

2218. Plus technical education?—Yes.

2219. Plus the universities?—No.

2220. Why do you exclude the universities?—The country, I think, has never contemplated control of the universities, and that is a matter which I have never had to consider.

Mr. *George Russell.*

2221. Perhaps I should say that when I spoke of "education from the top to the bottom," I intended to ask you whether you contemplated this Minister having the oversight of the universities as well as the elementary schools?—No, I did not; I intended only primary and secondary education.

Mr. *J. W. Lowther.*

2222. Plus the whole of your Charitable Trusts Acts work?—Yes.

2223. Then such a Minister, I suppose, would have his time pretty well taken up?—I think so.

2224. There is no lack of work at the Education Department at present?—For the Minister do you mean?

2225. Yes?—That I cannot say.

2226. I understand that the ground on which you say that all the educational trusts must be placed under a Minister, is because you find it impossible to separate the educational administration from the legal administration of the educational charities?—Yes, that is so. I feel unable myself to solve that difficulty of separating those two; and that is a matter upon which I feel I can speak with some confidence, because it is a matter of my daily work.

2227. And equally have you to throw in the whole of the work of the Charitable Trusts Acts, the non-educational charitable trusts, because you do not think that it would be possible to divide the non-educational from the educational trusts, that it would not be worth while?—I think it would be very difficult to do it. They are very often mixed up to begin with; and secondly, I think that it would be intolerable to the country to divide them, because that would involve two Charity Commissions.

2228. And you would be perfectly prepared to see this Minister's decisions brought before the Court of Chancery and the Privy Council from time to time to be affirmed or to be overruled?—The acts of the Minister are now brought before the Privy Council as regards the Endowed Schools Acts. As regards the Court of Chancery I suppose that it would sometimes happen that the acts of a Minister would be brought before the Court; I believe myself that it would be extremely rare, and I am not myself very seriously impressed with the evil results.

2229. You have given us an account of the staff of the office; in the case of how many of them is a legal qualification required?—The ordinary staff, do you mean?

2230. Yes, the whole, from top to bottom. For two of the Commissioners a legal qualification is required, is it not?—Yes, two of the Commissioners.

2231. Then the secretary, is it required in his case?—For the secretary and assistant secretaries no legal qualification is required by statute.

2232. The Assistant Commissioners?—With regard to the Assistant Commissioners it is the practice of the Commissioners to require that they should be barristers.

2233. Of a certain number of years' standing?—Following the analogy of the requirements in regard to clerks of the upper division, the Commissioners ordinarily look that they shall be of not less than two years' standing at the Bar, for the appointment of Assistant Commissioners.

2234. Then of the upper division clerks?—The qualifications of the upper division clerks since the 27th of May 1884, are regulated by a Treasury Minute. I will read a few words from it, if you will allow me.

2235. Does it require any legal qualification?—Yes. The minute relates to the performance of the duties of clerks of the upper division in the Charity Commission; such division consisting of principal, first and second class clerks; and it directs that for the future, that is to say, after the 27th of May 1884, no appointments shall be made to any of these offices, except of a person between 25 and 32 years of age, who, being a barrister of not less than two years' standing, shall have been called to the Bar after passing a public examination, or of a person who shall have been duly admitted as a solicitor under the regulations of the 2nd of November 1875. Exception from that can only be made with the special leave of the Treasury, in case the Treasury is satisfied with the reasons for specially appointing a barrister aged more than 32, but not more than 40 years.

2236. I suppose it is impossible for you to give, even roughly, a statement which would show the proportion of work of a judicial and quasi-judicial character as compared with the remainder?—I think it would be very difficult for me. The difficulty would be, that I should have to start with a definition of exactly what is meant by "judicial." As has been already put before this Committee, a large part of the judicial work of the office is common to all offices, and I do not think that I could discriminate that part of the judicial work so as to show what proportion it is which is special to the Charity Commission.

Mr. *Freeman-Mitford.*

2237. Might I ask whether the secretary to the Commission is a barrister?—There is no statutory requirement or other rule on the point.

2238. Practically, are you a barrister yourself?—I have been called to the Bar, but have not practised.

Mr. *J. W. Lowther.*

2239. You gave us an instance (a week or two ago now) of a case of breach of trust which I think the Chairman put to you; I believe it was in Question 1974?—Yes.

2240. The character of the trust being for the distribution of clothing amongst certain poor communicants?—Yes.

2241. It appeared that the money had been spent in the purchase of communion plate?—Yes.

2242. Would it not be more correct to say, instead of calling it a breach of trust, that it was a scheme made by the trustee to the best of his abilities. I will put it this way: Is it not rather straining the matter to call it a breach of trust?—I think

Mr. *J. W. Lowther*—continued.

—I think I said that I might venture to call it a breach of trust; but, if that expression is thought too severe, I am prepared to accept the suggestion of the honourable Member that the trustee made a scheme for himself; but that is as illegal and as irregular a thing as a trustee can do.

2243. In this case his answer was, was it not, that there were no poor communicants in the parish?—Yes, I think he did say that.

2244. Does not that rather alter the complexion of matters?—He was required to repay the money out of his own pocket, and he did it.

2245. This is a case that you very often have, do you not; cases of failure of trust, and the trustees making schemes for themselves?—It used to happen more frequently than it does now. I think recent judgments of the Court have opened people's eyes to the fact that that is an irregularity of the gravest kind.

2246. But you have instances even now occurring, in which the trustees make *cy pres* schemes for themselves or what they conceive to be *cy pres* schemes?—Yes, in the case of small charities voluntarily administered by people in the country who have not exact acquaintance with the requirements of the law in that matter.

2247. In regard to the addition of second class clerks for the purpose of examining the accounts and so forth, have you any more room in the office to accommodate them?—Not much; I am afraid they would have to be placed very near the ground.

2248. Or very near the sky?—Yes, very near the sky and very near the ground too.

2249. With respect to this ideal ministry, have you yet given your evidence upon that matter before the Royal Commission on Secondary Education?—I have not been before the Royal Commission on Secondary Education.

Mr. *Egerton Allen.*

2250. Will you look at your answer to Question 2105 at the end of the last sitting. At the end of the answer you say: "The 44th section of the Charitable Trusts Act, 1855 (which relates to the presenting of accounts by the churchwardens) is not a really effective provision for our purpose"; do you think that legislation would be advisable to strengthen it?—Yes; I said so in answer to another honourable Member, and mentioned what I think is the desirable legislation.

2251. I am afraid that I was not in the room; there is a limitation in that section that the accounts should only be rendered to the vestry of parochial charities?—Yes.

2252. Would you do away with that limitation?—Certainly.

2253. You would have the accounts of all charities presented to the vestry?—No.

2254. Whom would you have them presented to?—I would have them placed in some public place for inspection. In some cases it would be the vestry; in other cases there would be better places; but in some public place for inspection.

2255. Do you think that presenting them to parish councils and town councils would be a good plan?—I do not think it is sufficient; I think they ought to lie and be in some place into which any man in the locality can walk and look at them.

Mr. *Egerton Allen*—continued.

2256. And I understand you to mean all charities of any kind whatever?—Certainly.

2257. Now in the close of your examination, the time before last, at Question 2017 you were asked as to the removal of the 50*l.* limit. Would you give as great a power to the Charity Commissioners to initiate proceedings as the Education Charity Commissioners have?—I would give the same power of initiating proceedings in regard to charities of the annual value of 50*l.* and upwards as there is now in regard to charities of a less annual value than 50*l.*

2258. I am afraid I do not quite understand. Is there any limit now to the power of initiating schemes in regard to charities under the annual value of 50*l.*?—There is a limit, but it in effect comes to this: that an application can always be got or almost always (I think I might say always) in the case of a charity under 50*l.*, whereas in the case of a charity of 50*l.* and upwards it must come from the trustees, and that cannot always be got.

2259. You would merely limit the initiation of those schemes by requiring application from somebody interested?—The same application that was required for charities under 50*l.*

Mr. *Jesse Collings.*

2260. I want to ask you with reference to an answer that you gave to Mr. George Russell; you said there were many complaints, but they come mainly from local persons or benevolent outsiders?—I did not intend to say that; I should prefer to say, if the right honourable Member will allow me, that they come from all classes of persons.

2261. Many of your schemes deal with the poorest classes in the district?—Yes.

2262. What means have they to send complaints to the Commissioners. In the first place what means have they of knowing the fact that charities affecting them are being dealt with?—As regards schemes made under the Charitable Trusts Acts, I minutely described the procedure, which I think fairly shows that publicity of a very complete kind is given to every scheme in the locality. As regards schemes under the Endowed Schools Acts, the Act of Parliament lays down a special course of procedure which is not only observed, but greatly enlarged upon, by the Commissioners in regard to the amount of publication and publicity given.

2263. In your evidence you described the procedure under the Charitable Trusts Acts and you gave that procedure as being under Section 54 to Section 60 of the Act of 1853, and also stated that there were notices given to the local authorities as well as to the trustees. Might I ask if those notices are given to local authorities and made public before the scheme is started on?—Yes. But the procedure to which the right honourable Member refers is that under the Act of 1860, not under the Act of 1853.

2264. Or we will say when a draft scheme is first submitted to the trustees, is that draft scheme, also submitted to the local authorities and made public in the locality?—In order to answer that question I should ask whether the right honourable Member is inquiring about schemes under the Endowed School Acts.

2265. Under

Mr. *Jesse Collings*—continued.

2265. Under the Charitable Trusts Acts?—Under the Charitable Trusts Act, 1860, either the scheme itself or a sufficient notice of the contents of the scheme is always published.

2266. Does that publication take place when the scheme is conceived and only just drafted, or after it is decided on between the Commissioners and the trustees?—At the first stage.

2267. A draft is sent to the local authorities?—A draft is published or sufficient notice of the contents of the draft.

2268. Has that been in the past the invariable practice?—Always. That is required by the Act of Parliament. The proceedings would be informal and invalid if it is not done. It must be done.

2269. I do not mean placing them on a public building, but sent direct to the Mayor or to the Town Clerk of the locality?—In the case of a Municipal Borough, for years past it has been the custom of the Board, though not the requirement of the Act of Parliament, that a copy should be sent to the municipal authorities.

Chairman.

2270. Has any similar custom of the Board actually been adopted in respect to county authorities?—What has been done in respect to county authorities as regards schemes under the Charitable Trusts Act, 1860, is that the Board has decided that all county authorities who pass a resolution desiring to have copies of schemes shall have them.

2271. County authorities therefore up to the present time have not been quite in the position that municipal authorities are in?—Not quite.

Mr. *Jesse Collings.*

2272. In section 60 of the Act of 1853 the Commissioners are required to set forth particulars in full under the Charitable Trusts Acts?—That is not the Act which really regulates the proceedings for schemes under the Charitable Trusts Acts; it is the Act of 1860.

2273. You gave us Sections 54 to 60, as the procedure which these Commissioners went under?—That is for that very rare thing, a Parliamentary scheme under the Charitable Trusts Acts.

2274. Then in other schemes than that, is Section 60 of the Act of 1853 a dead letter; that is to say, are the Commissioners not required to lay before Parliament in their Report full particulars, and the grounds of approval and the grounds of objection, and all proceedings in respect of the objections, and the grounds on which they are over-ruled; are they any longer required to do that, or in other words, is the section no longer operative?—The section is as fully operative now as it has always been, and applies only, as the right honorable Member will observe, to schemes made under the special jurisdiction of that Act, which is rarely exercised by the Commissioners.

2275. Then in all schemes not under that Act the Commissioners are not required to put such full information before Parliament?—In the case of schemes under the Charitable Trusts Act, 1860, they are not required.

2276. As we are discussing the question of machinery, might I ask if it would not be a benefit, and an improvement as regards the public and as regards the Commissioners themselves, if such a course were to be adopted with reference to all schemes which the Charity Commissioners make?—No; I think it would be very detrimental to the business of the Commission.

2277. But would it be detrimental in respect that Parliament, and through Parliament the public, would know these particulars which are directed in Section 60 of the Act of 1853?—At the present moment there is supplied to the House of Commons once a fortnight a list of all the schemes which the Commissioners have been making during the past fortnight under the Charitable Trusts Acts, and any member of Parliament can look at that list and obtain a copy or an inspection of the schemes. I believe that is as far as it is possible to go with any real advantage in the way of informing Parliament of what the Commissioners are doing.

2278. You think that is sufficient?—I think that if all the schemes were brought before Parliament ——

2279. Excuse me, I am not speaking of the bringing them before Parliament; I am speaking of including them in your annual report to Parliament, giving those particulars in your annual report to Parliament; in other words, making the section I speak of, which directs that there shall be particulars of the objections and the grounds on which objections are over-ruled, and so forth, operative with regard to all charitable trusts framed by the Commissioners?—It would be a very heavy amount of labour, and I should hardly suppose that Parliament could go into such a report as that.

2280. You think the present list given to Parliament is sufficient?—I think so.

2281. Now with reference to the procedure under the Endowed Schools Acts, I think you said that all educational endowments founded 50 years before the passing of the 1869 Act were outside the jurisdiction of the Commissioners?—Except with consent.

2282. Except with the consent of the trustees?—The governing body.

2283. Might I ask you this: Supposing a governing body wishes to reform its trust, its proceedings, can they prepare a new scheme themselves, and submit it to the Charity Commission?—They can do so under the Endowed Schools Acts.

2284. I am speaking of the Endowed Schools Acts?—And we are excluding, of course, from the consideration, Wales and Monmouthshire. In England, other than Monmouthshire, they can do so; they can send to the Commissioners a draft of the scheme as their suggestion if they like.

2285. Then having sent a draft of the scheme containing any measures of reform which they think necessary, have they by that act surrendered their powers as trustees into the hands of the Commissioners?—No.

2286. They can retire the application if they choose?—No application is required, and therefore the making of it, or the retiring of it, has no effect upon the procedure.

2287. But supposing the trustees apply to the

Mr. *Jesse Collings*—continued.

Charity Commissioners, in what form do they make that application?—There is no requirement that they shall make an application. The Commissioners have the initiative; they can proceed under those Acts, the Endowed Schools Acts, without application; but it very often happens that the trustees suggest to the Commissioners what they would desire to be done by a scheme under the Endowed Schools Acts, and the Commissioners receive and entertain any such suggestion or application, although it is not a statutory requirement that it shall be made.

2288. Then the Commissioners can initiate a scheme under the Endowed Schools Acts without the consent of the trustees?—Yes.

2289. Excepting in the case of schools above a a certain income?—You may say generally except in case of modern endowments, and in cases where non-educational charities are to be converted into educational ones.

2290. And have the trustees the power when they initiate a new scheme in this manner to vary the main features of the foundation?—They can only make suggestions to the Commissioners.

2291. I mean have the Commissioners when they initiate a new scheme such a power?—The Commissioners can, as I have explained, vary trusts under the Endowed Schools Acts having always in their regard the provisions of the 9th Section of the Endowed Schools Act 1869. That is to say, they "have power in such manner" (I am now reading from the Act) "as may render any educational endowment most conducive to the advancement of the education of boys and girls, or either of them, to alter and add to any existing and to make new trusts, directions, and provisions in lieu of any existing trusts, directions, and provisions which affect such endowment, and the education promoted thereby, including the consolidation of two or more such endowments, or the division of one endowment into two or more endowments."

2292. And in that respect their jurisdiction is absolute?—Their jurisdiction is absolute to initiate proceedings for those purposes subject to certain other restrictions and limitations which are contained in the Act.

2293. They can exercise the power, for instance, in the case of free schools, to impose fees on the children?—Yes.

2294. That is one ilustration. You have power which I believe the Commissioners frequently exercise to deal with a free school where children have not paid fees, and impose the payment of fees on them?—Yes.

2295. You can further remove the site of a school altogether?—The Act includes that.

2296. I am dealing, you understand, with the machinery and the administration?—Yes.

2297. And you can take certain foundations and take the proceeds for scholarships and exhibitions in other schools?—That would be a variation of the trust of the endowment which is certainly within the general scope of the Act.

2298. I am not discussing the matter; I am only getting out the machinery through which

Mr. *Jesse Collings*—continued.

the poorer classes are being dealt with by the Charity Commissioners under their Acts, and the administration they have adopted. Indeed, they might take the school and put it in an outside area, a different locality altogether, if they considered it right to do so?—They might propose to do so.

2299. And further, supposing there is an educational charity in which, we will say, clothes and food are supplied, the Charity Commissioners can take the funds representing the food and clothes, and apply them to education; in other words, abolish the supply of food and clothes?—Always speaking of their jurisdiction now under the Endowed Schools Acts.

2300. I am confining myself to the Endowed Schools Acts?—They can do so if it is approved by the Education Department and Parliament.

2301. And am I right in supposing that they have frequently done so?—They have frequently abolished clothing.

2302. And food?—Not often.

2303. There are such privileges as you are aware of, included in the term "Setting out in life," whatever that might mean, that can be diverted or can be taken to be applied to education?—"Advancement in life" you refer to. That can only be done with the consent of the trustees. Clothing and giving of food to children which form part of the endowment of a school, which are for the benefit of scholars of a school, can be dealt with without getting the consent of the trustees, subject always to the approval of the Education Department and the absence of disapproval by Parliament.

2304. You said just now, with reference to the protection of the poorer class of children under the present system, that you were bound by Section 9, I think you said, of the Act of 1869?—No, that is not the section which protects the interests of the poor; that is the section which states the limitations of the powers of the Commissioners in varying trusts.

2305. Then would an appeal lie under Section 39?—It is the 11th section of the Act of 1869 as amended by the 5th section of the Act of 1873, that safeguards the interests of the poor.

2306. Yes; but am I right in supposing that such varying of the trusts as affects these particular privileges of the children which I have named, does not come under the appeal which you named; has it not been decided that they have no *locus standi*?—No, the contrary has been decided frequently.

Chairman.

2307. Was not the question of "due regard" inquired into at length in the Committee of 1886?—Yes; and there is no question on which the Commissioners are more strictly obliged to have in their mind the appeal to the Judicial Committee. There is no more common subject of appeal, and hardly any subject of appeal to the Judicial Committee on which more important and conclusive decisions have been given.

2308. What

Mr. *Jesse Collings.*

2308. What appeal do you mean?—About having regard to persons in the same class of life as those who were benefited at the time of the proposed change.

2309. Then you think that that appeal to the Queen, to the Judicial Committee, is sufficient for the purpose we have been discussing, of safeguarding the rights of the poorer classes?—As a legal appeal I think it is quite sufficient, but the Right Honourable Member is aware that that is not the only appeal, that the thing may come before both Houses of Parliament.

2310. If a petition was lodged?—Yes, a petition as defined in Section 13 of the Endowed Schools Act, 1873.

2311. Am I right in supposing that that question was raised by the ratepayers of the Hayden and Woodsheilds parishes in which it was decided that the ratepayers had no *locus standi* in regard to the kind of education which should be given to the children?—Is the Right Honourable Member referring to an appeal to the Judicial Committee.

2312. Yes?—Can the Right Honourable Member give me the reference to the Law Reports.

2313. I speak from memory; but it had a great impression on me at the time; and speaking from memory it was decided on this question of varying a trust, and whether a new kind of education was equivalent to the advantages which the poor children obtained under the old one, that that was no ground of appeal?—I do not recognise the case.

Mr. *Jesse Collings*—continued.

2314. The ratepayers in this case appeared and stated that they had a vested interest of free education for their children?—In what school?

2315. I do not know that I remember exactly the name of the school; it was raised by the ratepayers of Hayden and Woodsheilds?—There has been no appeal to the Judicial Committee in the case of Hayden and Woodsheilds. I have no notion to what case before the Judicial Committee the Right Honourable Member is at present referring; and I therefore am in a difficulty in answering the question.

(*After a short interval.*)

Chairman.

2316. You desire to put some papers in, I believe; perhaps you will explain what they are?—This (*handing in a paper*) is a continuation of the Appendix to the Report of the Select Committee of 1886 with reference to the appeals to the Queen in Council under the Endowed Schools Acts; and this (*handing in another paper*) is a Return of Motions made in Parliament with reference to Schemes under the Endowed Schools Acts, motions for an Address to the Queen in regard to Schemes under the Endowed Schools Acts.

Mr. JAMES WILLIAM LOWTHER (a Member of the Committee), Examined.

Chairman.

2317. You entered the House of Commons, I think, in 1883?—Yes.

2318. When were you appointed Parliamentary Commissioner of the Charity Commission?—The 12th of November 1887.

2319. And you served until when?—Until September 1891.

2320. Perhaps you will kindly give us some account of what you conceived to be the duties of that office?—First of all to make myself thoroughly acquainted with the Acts and as far as possible with the current work of the Commission. Secondly, to communicate freely with any Members of Parliament or others who desired information with reference to the Commission or any portion of its past or current work. Thirdly, to attend the meetings of the Board. Fourthly, to reply to questions in the House of Commons; and of course in replying to questions to make myself acquainted with the circumstances out of which those questions arose. Fifthly, to defend the action of the Commission if challenged either on the vote or on a special occasion; and I draw a distinction between that duty and the next, which I call sixth, namely, to be prepared to defend the action of the Commission in any attack made upon it during the course of a discussion upon an Endowed Schools scheme; and seventhly, to assist the Chief Commissioner in any interdepartmental communications which he might have, with, for instance, the Treasury, the Education Department, and so forth.

2321. Now would you kindly give us any observations that occur to you upon those several duties, referring to them by the numbers you have given in speaking of them?—I will begin with No. 1. Of course I was quite new to the work, and I found that what legal training I had had as a practising barrister was of great assistance to me in mastering the rather complicated Acts which the Commissioners had to administer. On the other hand, I found that it was inconvenient not having any room at the office to which I could resort; and, of course, in that way I was precluded in some respects from obtaining as great a knowledge of the current work of the office as otherwise I could have obtained. I ought perhaps to say that that was due to the fact that there was no room obtainable. It was only by regular attendance at the Board, or by a personal consultation on the part of one of the Commissioners, or by my attention being specially drawn to the particular matter, that I was able to keep myself acquainted with the current work. I think that I averaged in my attendance at the office four days a week; I do not mean to say that I attended for many hours every day, but that some time or other during four days of the week I was at the office for periods varying from a quarter of an hour to three or four hours.

Chairman—continued.

2322. Now, upon No. 2, communicating with Members of Parliament with reference to current work, have you anything to say upon that?—I think I may say that I was in almost daily communication personally or by letter with Members

Chairman—continued.

of Parliament of all political parties. I have frequently been consulted by Members as to the action of the Board, and I have, I think, explained very frequently to Members of all parties some of the difficult questions; difficult, I mean, to those who are not acquainted with the working of the Acts. For instance, the question of the 50*l.* limit. Another question very often misunderstood is the question of the position of the Official Trustees of charitable funds. Again, the differences between the charitable trusts and the Endowed Schools' work. And I remember also on one occasion (this was in the House itself) having to explain several times over what, of course, the Committee now know and recognise as an elementary fact, that Charitable Trusts' schemes are not laid before the House of Commons, and that it is only Endowed Schools' schemes that ever come before it.

2323. Would you give it as your opinion from your experience that it is of great advantage for a man who is in the position of a Charity Commissioner to also have a seat in the House of Commons, and be the representative of the Charity Commissioners there?—I would; I think that is most desirable.

2324. Quite apart from any connection with the Government of the day?—Yes; for reasons which I will give later on, I do not think it is desirable that the fourth Parliamentary Charity Commissioner should be a member of the Government; but I do think that it is most desirable that he should be in the House readily accessible, in constant touch with Members of the House, on the one hand, and in frequent or constant touch with the Members of the Commission, on the other.

2325. Now, with regard to point No. 4, questions in the House of Commons?—During the time that I was Commissioner I think the number of questions averaged from 25 to 30 per Session. I refer, of course, to official questions publicly asked; but that does not properly represent, in fact it most inadequately represents, the actual communications which passed between Members of Parliament and myself with reference to the work. I have a table, which has been kindly prepared for me, which shows the number of questions in certain years. In the year 1873 there were no questions asked with reference to the Charity Commission; in 1883 there were eight; in 1887 there were 10; in 1889 there were 23; in 1890 there were 32; and in 1893 there were 68.

2326. Showing a great and growing public interest in Parliament in the work of the Charity Commissioners?—Yes; and I think perhaps I might say that probably a good deal of that interest in the House was due to the fact that it was known that I was able of my own knowledge to answer questions which before my appointment could not be answered by the Vice President, except as the mouthpiece, or the conduit-pipe of the Charity Commission. What I mean is this: The Vice President of the Council who formerly answered questions relating to Charity Commission work had no personal knowledge of the work of the office; he simply read out the answer which was sent to him by the office. In my case, it was known that I had a seat at the Board, and that I attended the Board meetings, and that I had a voice equal to that of my colleagues in deciding the matters that might be brought before it; and that, I think, accounts in great measure for the increased number of questions.

2327. Am I correct in supposing that your knowledge was derived from attendance at the Board, and such consultations as you thought fit to take part in with your colleagues, and not in any way from sharing in the current work of the Commission?—Quite so; I did not think that, being an unpaid Commissioner, it was any part of my duty to take up the ordinary routine work of the office; and I may say that I had of course rather to carve out for myself my duties; I had no precedents to go by, my appointment was in one sense an experiment, and I had to feel my way for myself.

2328. It was practically a new position?—Yes.

2329. You have said that there was no precedent; we have had it in evidence, I think, that it was an old custom or practice revived; but, speaking practically, you found that there was no precedent?—Yes.

2330. Circumstances had altered so, I suppose, that whatever had been the functions and practice before, the change of circumstances had been such that there really was no precedent?—Quite so.

2331. Then, with reference to questions, I should like to ask you a little further with regard to that point. We have had it, I think from the Secretary, that every question asked in Parliament, is handed or forwarded to the Parliamentary Commissioner with the initials thereon of the Chief Commissioner; now, what was the practice when you received that, did you in any way alter, or vary, or modify, the answer as given to you when you gave it in Parliament?—Yes, frequently in consultation with the Commissioner under whose charge the particular case was.

2332. Then you departed from it at your own discretion after it had been initialled by the Chief Commissioner, in consultation with the individual Commissioner; is that so?—No, I do not think that quite represents the procedure when I was at the department.

2333. Perhaps you will explain it?—The procedure was this; as soon as I became aware that there was a question on the paper, I would at once consult with the Commissioner under whose department this question arose, and I would either accept fully the draft answer which he had prepared, or I would draft an answer in consultation with him; when I had fully satisfied myself that it was the right answer to give after consulting with the Commissioner, and after an examination of the file and the papers in the case, I would then take it to the Chief Commissioner before finally giving the answer in the House of Commons, in order that the Chief Commissioner might be made aware of what was being said, and that the Commission might not be bound by any statement of mine without, at all events, the knowledge of two Commissioners; and then the procedure described by Mr. Fearon is perfectly correct. I gave the answer in the House, sent

one

Chairman—continued.

one copy to the press, as usual, and returned the other copy to the secretary in order that it might go upon the particular file in question.

2334. May I ask you this: did you in your mind consider, when you were rising in the House of Commons to answer a question, that you were responsible for it, or that the Chief Commissioner was responsible?—I considered myself responsible for it; I considered that the whole Commission was bound by any answer that I gave. It would have been impossible, for instance, for the Commission, after I had given one answer, at a subsequent Board meeting, to throw me over and to take a course diametrically opposed to the course indicated in the answer which I had given; that I consider would have been totally impossible.

2335. In fact, answers given in Parliament are answers of the Charity Commission?—Yes.

2336. Is there anything that you desire to add under that head?—No.

2337. We will pass to No. 5, then, if you please?—With regard to No. 5, I might say that the debates upon the Charity Commission showed a tendency directly after my appointment to increase considerably in length. In 1873 the debate on the Vote of the Charity Commission occupied in "Hansard" three pages; in 1883, half a page; in 1887, 65 pages; in 1889, 25 pages; in 1890, 30 pages; and in 1893, 19 pages. I think that I was able to explain with more authority, because I was in close touch with the Commission, than the Vice President had formerly been able to do the action of the Commission wherever it was challenged, or wherever criticisms were offered or questions proposed, and I think that accounts for the great increase in the time devoted to the consideration of the Vote.

2338. The House felt that they were in closer relations with the Charity Commission itself?—Quite so. I might say also that with regard to the endowed schools schemes I always held that the Vice President of the Council, having approved them, was responsible for their passage through Parliament, and it was not a part of my duty to defend them; but at the same time, I always was prepared to address the House upon the subject, and act, in fact, as a second string or an under secretary, as it were, to the Vice President of the Council in those matters; but he, I considered, was primarily responsible for them.

2339. Have you anything to say on No. 7, inter-departmental communications?—I only wish, in that respect, to say that the Chief Commissioner was, of course, responsible for the inter-departmental communications, and I only rendered my best offices towards amicable solutions whenever difficulties occurred.

2340. Now, passing to your more general observations, what was your relation to your colleagues?—I should say that it was very much like the relation of one Member of the Cabinet towards his colleagues. I never had occasion to consider the question, but I suppose that if I had differed from my colleagues, and they had overruled me upon any point, I should then have had to consider whether to accept their decision and make the best defence that I could for it in

Chairman—continued.

Parliament; just as now a Cabinet Minister is frequently overruled by his colleagues, and has to put the best face upon it and make the best defence he can for his action; or else I might have declined all responsibility for the decision, and sent in my resignation. In each case I should have had to consider the question of the degree of importance of the decision arrived at. If it were only a trifling matter, of course I should be prepared to accept the view of my colleagues, and make the best defence I could. If it were a really important and vital matter, my only course would have been, to have told my colleagues that I was not prepared to defend it in Parliament, and to have sent in my resignation.

2341. May we take it that your having a seat in the House of Commons, and thereby being brought under what I may call the fire of public criticism, strengthened your position at the Board of the Charity Commission?—Yes, I think so; indeed, I am sure of it. I never had occasion to do it, but I could, of course, at any time have said to my colleagues, "I cannot defend this in Parliament; this is not a defensible decision, and I can be no party to it;" and then, naturally, my colleagues would have considered the question, perhaps, in rather a different light. I am speaking now, of course, not with regard to what I may call judicial or *quasi*-judicial decisions, but upon matters of policy.

2342. Then, from your experience, you would say that the Board is susceptible to the public influence to a greater extent when it has one of its members in the House of Commons?—Certainly; I think that is most desirable; and in close touch with the House, and also a frequent and regular attendant at the Board.

2343. Would you go so far as to say that, in your opinion, the Charity Commission ought to be governed by a reasonable public opinion outside?—In matters of policy, certainly. I would like to add this to what I have already said, that, for the reasons which I have just given, I do not think it desirable that the Fourth Parliamentary Commissioner should be a Member of Her Majesty's Government, however subordinate a Member, because his resignation would have a fictitious importance; the newspapers and the public would make a great fuss if a subordinate Member of the Government were to resign his office; whereas if an independent man, like the Fourth Parliamentary Commissioner, did so, it would pass almost unnoticed.

2344. In fact, it would have a deteriorating effect upon the work of the Charity Commission, in your opinion, would it?—No, I do not think that.

2345. You would not put it so high?—No, I think not quite so high as that. I mean, that it would have a bad effect upon the Government, and it would make it a little more difficult for the Fourth Parliamentary Commissioner to resign.

2346. It is from the Government side, then, and not from the Charity Commission side, that you see the objection?—From the Government side, and from the position of the man in question himself.

2347. You think, that as he would shrink from

Chairman—continued.

involving the Government in his resignation he would hesitate to use what I may call the penalty of resignation to carry his views out with the Charity Commissioners?—Yes.

2348. Have you anything to say on the judicial character of the work?—I was much struck by it myself; it seemed to me that we were sitting very much like a court, only not in public. As cases came up we had constant references to Acts of Parliament; the Law Reports were frequently taken down, and the decisions of judges considered as to their bearing upon the particular case in question; and although I recognise that it is very difficult to divide between the judicial and semi-judicial work and the other work, yet, to my mind, the great bulk of the work was of a judicial or semi-judicial character; and I think, perhaps, I might be allowed here to add that, in my time, the Board derived great assistance from the presence amongst its members of Mr. Anstie, Q.C., who was then Temporary Commissioner in charge of the City Parochial Charities Act. His appointment has since then terminated.

2349. Have you anything more to say upon that part of the subject?—That, I think, leads me to consider the possibility of the whole work being placed under the charge of a Minister; and with regard to that I would say that this difficulty strikes me: the work being, as I have indicated, of such a very judicial or semi-judicial character, the Minister must be supplied with able legal experts. If the Minister simply follows the advice of his legal experts, I confess I do not see what the use of him is; he is only drawing a large salary, and he is a costly ornament; and at the same time he destroys to some extent the sense of responsibility of those very legal experts, because in each case they would feel that the Minister is responsible, and they might be inclined to throw the responsibility off their own shoulders, and not to give the same great care and attention to their work as if they themselves were the responsible parties. If on the other hand the Minister does not follow the advice of his legal experts it seems to me that it would be a very dangerous course. I suppose it would be said that he was a very strong man if he overruled his permanent officials, but I think he would be a very foolish one. He makes himself liable in many instances to an immediate appeal, and possible a reversal by the Court of Chancery, and by the Judicial Committee of the Privy Council; and equally he destroys the sense of responsibility of his immediate subordinates.

2350. Would you confine what you say to the legal portion of the work coming before the Charity Commission, or do you wish us to infer that it applies to all their work?—No, I wish to confine it to the legal portion of it.

2351. Do you desire to add anything to that statement?—I might perhaps add this: that our whole system of polity in England is based upon the strict line of division between the legal and judicial machinery and the political machinery. We have no representatives of the courts of law in the House of Commons, or if we have any, such as the Recorder of London, or (as used to be the case) the Master of the Rolls,

Chairman—continued.

we are very careful to prevent any questions whatever being asked those gentlemen with regard to their judicial decisions. The Charity Commission have taken over the original and inherent jurisdiction of the Court of Chancery, and I think that it would be a retrograde step and a foolish step if we were to allow questions with regard to decisions which are really based upon law and equity, and decisions of the courts I think that decisions of the Charity Commission will always command more respect, will be less cavilled at, will be more readily accepted, so long as the public recognise that it has no political connection whatever, and that the change of political parties and of political power does not in the least affect the decisions of what are to a very great extent purely legal questions.

2352. It is affected by the change of political parties now to this extent, that the Parliamentary Commissioner changes?—Yes, the Parliamentary Commissioner changes; but the Parliamentary Commissioner, having only one voice upon the Board, cannot effect as a Minister would a reversal or a change in the whole policy, or in the regular course of decisions of the Board.

2353. He is a mere conduit pipe in some respects?—He is; or perhaps "conduit pipe" is not quite the right expression, because I think that he is something more than that. He is more in the nature of a coupling; he brings closer together the House of Commons and the Charity Commission.

2354. That is a much more happy illustration; would you give us the reason why he should change when political parties change, in your opinion?—I really do not know why he should change.

2355. You have not considered that?—No, I have not considered it very much.

2356. Then, passing to another point, I think you wish to give a few illustrations of public Departments which have no ministerial chief?—Yes; the honourable Member on your right, the Member for North-East Lanarkshire, a week ago put the question to Sir George Young whether there were any other public Departments at all similarly situated as the Charity Commission, independent of a Minister in the House of Commons, and yet their Estimates appearing every year in the Votes and being voted by Parliament. I could cite the Railway and Canal Commission in England as being an example of such a body.

2357. May I ask, is there any member of that Commission sitting in the House of Commons to answer questions?—No, none.

2358. To that extent it is different?—Yes; I am not now so much upon the point of the Parliamentary Commissioner, as upon the point of an independent body acting independently of a Minister, not being represented by a Minister, and yet drawing its funds annually from a Vote by the House of Commons, the funds not being charged upon the Consolidated Fund. I would cite in England, then, the Railway and Canal Commission; in Scotland the Crofters Commission; in Ireland the Land Commission; and then, in addition to that, the Civil Service Commission; the Lunacy Commission; the Public Works Loan Commission; the Friendly Societies Registry; the

Chairman—continued.

the Registrar General, the Queen's Proctor, the National Debt Office, and the Public Record Office, and there are some others.

2359. Do you not wish to suggest that their functions are very similar to those of the Charity Commission?—Not in the least. Perhaps some one might say that the Railway and Canal Commission is in some sense similar; they have to administer Acts of Parliament, and give judicial pronouncements. The Crofters' Commission is in some sense similar. Of course, there can be none exactly similar, otherwise there would be no necessity for the two bodies existing and doing the same work alongside of each other; there can be none precisely similar.

2360. At all events, I may take it from you, which is, of course, the fact, that for reasons either good or bad it is not thought desirable that any of these bodies should have the presence on them of any one with a seat in the House of Commons?—No, I would not put it quite that way; I would prefer to say that it is not thought desirable that any of these bodies should be represented by a minister in the House of Commons.

2361. By anyone?—By any minister.

2362. But the Charity Commission is not represented by a minister in the sense that I am asking?—No.

2363. It is not thought desirable that any one of these bodies should have anyone upon them who sits in the House of Commons, as a matter of fact, as a conduit-pipe?—There is no such person, I think.

2364. It is not thought desirable that there should be; but I understand from you that it is thought desirable, and has proved to be a most excellent thing, in the case of the Charity Commission?—Yes.

Sir *Andrew Scoble.*

2365. In the case of the Railway Commission, one of the commissioners is a Member of the House of Lords; Lord Cobham?—Yes. I hope you will not misunderstand the reason why I have quoted these cases. I have only quoted these cases to show that there are bodies carrying on judicial, or *quasi* judicial functions, who derive their supplies annually from a vote by the House of Commons, and yet are not under the direct control of a minister with a seat in Parliament.

Chairman.

2366. I put it to you, and I understand that you assent, that on none of these bodies is there someone who has a seat in the House of Commons, and acts as a conduit-pipe between them and the House of Commons?—No, I think, in none.

2367. Now, passing to the question of momentum referred to in Question 175; have you anything that you desire to say to us on that?—My view is, that if the proposals in the Bill are practically unopposed and meet with general assent, the Bill, whether it is under the wing of a minister or of a private Member will go through.

2368. By Bill, you mean a Bill affecting a charity, I suppose?—Yes, I say that in that case it will go through but if the proposals are of a

Chairman—continued.

contentious character, and meet with much opposition, that Bill will not go through at all, whether it is under private patronage or whether it is under the charge of a minister, unless the Government of the day are prepared to make it a first-class Government measure. If the Government of the day are prepared to make the Bill a first-class Government measure, of course they can get it through; but if it is only of a second or third rate character, I do not think that then it will go through.

2369. You remember, perhaps, the answer to Question 177, by Sir Henry Longley: "We have not got the help of a political chief, or representative, either to defend our policy or to help us in getting the means to do our work;" do you desire to add anything on that?—I think Sir Henry Longley would be prepared to modify his statement about the Commission having no representative to defend their policy. That seems to me to be the exact position of the fourth Parliamentary Commissioner. He is a representative of the Commission, and he is in the House of Commons, partly for the purpose of defending the policy of the Commission, and he also would help in getting a Bill through, and for giving further powers to the commissioners.

2370. When you were the Parliamentary Commissioner, did any such function fall to your lot as helping to get a Bill through?—Yes, there was a Bill, I think, in 1890 which was brought in by Mr. Rathbone; it was brought in by a private Member, but I remember that I spoke in favour of the Bill; and I think that the second reading of that Bill was obtained without a division in the House.

2371. Was it unsuccessful in its further stages; or perhaps it did not reach any further stages?—It was blocked, I think.

2372. For some reason or other, there was not momentum enough behind it, not being a Government Bill?—No, I cannot accept that statement. I think if there had been all the momentum possible behind that Bill it never would have gone through, because the momentum of the opposition was stronger; the means in their power of stopping it at that stage of the Session was stronger.

2373. That is a point arising out of our procedure, of course?—Yes, I think I cannot put it fairer than to say, as I did just now, that if the Government is prepared to make the Bill into a first-class measure they can always get it through by the strength of their majority, but if it is relegated to a second or third place, whether that Bill is supported by a minister or not, it will not go through.

2374. I am afraid our experience in both parties is that many first-class Bills do not get through?—That is so; *à fortiori* that is the case with second-rate measures.

2375. Do you wish to say anything on the point of political pressure?—I hold very strongly to the opinion that if the Commission are placed under the direct control of a minister, political pressure will be attempted upon the minister; and it is very easy to bring political pressure where the Government has a small majority; a threat to abstain or to vote against the Government is, of course, a very powerful and formidable threat.

Chairman—continued.

2376. What would be the object of political pressure?—To obtain a decision from the Commission in favour of a particular view or of a particular party in the locality which supports the Member who uses the pressure. I do not, of course, wish to give any names, but I have a distinct recollection of one instance when an honourable Member from my own side of the House came to me and pressed upon me very strongly that it would do him a great deal of mischief in his constituency and possibly might lose him his seat, unless the Charity Commission took a particular line in dealing with a particular charity in a locality within his constituency; and, of course, I was able to meet him with the statement that the Charity Commission were quite independent of any political action; that we were obliged to decide according to statute and according to the best consideration which we could give; and that political matters did not and could not enter in any way into the consideration of the question. Of course, he was very angry with me for some time afterwards; but his anger was useless; he could not vote against me. And I think it is fair to say that that was not a single instance; there were others of a similar character; but that is the strongest instance that I remember. Now, there was an incident which occurred at an early hour this morning in the House of Commons, which I think throws a great deal of light upon this very point. An attack was made upon the President of the Local Government Board.

2377. You mean at the end of yesterday's sitting?—At the end of yesterday's sitting. An attack was made upon the President of the Local Government Board for not having properly exercised his judicial functions which were given to him under the Local Government Act of 1888. Honourable Members can read for themselves the debate which took place, and the result of it; but what I maintain is that a minister ought not to be in a position to have those attacks made upon him. Mr. Shaw Lefevre yesterday himself admitted (I do not say that there was anything wrong in the admission) that attempts were made on the part of certain persons to bring political pressure upon him; and he very properly resisted it, and declined interviews with those gentlemen who wished to bring this pressure to bear upon him. He very properly did so; but I go further, and I say that a minister ought not to be placed in a position where this political pressure upon a judicial matter could be brought to bear upon him at all.

2378. Is that all that you desire to say on that point of political pressure?—Yes, I think that is all.

2379. Then we have had pretty fully the story of the origin of the Parliamentary Commission; it is down on the notes; is there anything that you desire to add to that?—No, I think it all appears fully set out in the Report of the Commission of the year 1888. But there is some part which has not yet been made public, and that is in respect to rather an interesting discussion that took place upon the Third Reading of the Charitable Trusts Bill, 1853, and which is

Chairman—continued.

to be found in Hansard, Volume cxxix, page 1487.

2380. What year would that be?—That was the 8th of August 1853. I might, perhaps, very briefly tell the Committee what happened.

2381. Forty-one years ago?—Yes, but this raises, in connection with that Act and the passing of this Act, the very question which I understand the Committee are now considering.

2382. May I ask whether this is what you alluded to in your speech in the House on the motion for this Committee?—No, it was a different matter; it was Lord John Russell's speech on another occasion. This was on the 8th August 1853, on the Third Reading of the Charitable Trusts Bill. A motion was made by Mr. Hutt to allow the Commissioners to sit in Parliament, on the ground that it was desirable that they should be there to give answers to questions that might be put to them with regard to their work; and it was supported by Mr. Aglionby, and partly supported by Sir Robert Inglis, Mr. Bonham-Carter and Mr. J. Ball; and it was resisted by Mr. J. G. Phillimore, Lord John Russell, Mr. Walpole, Mr. Malins and Mr. Isaac Butt; and I may say that very much the same arguments were used on one side and the other as are still being used and were recently used in the House; and on a division the motion was rejected by 113 to 32.

Mr. *Donald Crawford.*

2383. What was the motion?—The motion was to allow the Commissioners to sit in Parliament.

Chairman.

2384. Then, the present state of things is that one Commissioner sits instead of four as there proposed; is that it?—The result of the acceptance of a Charity Commissionership disqualifies for a seat in Parliament. The proposal was that it should not be a disqualification.

2385. Have you any suggestions that you would like to bring before us?—My own views, as gathered from four years' experience at the office, are that the Charity Commissioners ought to have power given to them, first of all to amend a Parliamentary scheme without applying to Parliament. A Parliamentary scheme is a scheme established by Act of Parliament according to a particular procedure which is cumbrous and rather difficult.

2386. And not much used?—Very little used. I think during the last few years to my knowledge there has only been one scheme which has gone through in that way. I think the Commissioners should have power to amend a Parliamentary scheme without applying to Parliament. Of course, at present a Parliamentary scheme has the force of an Act of Parliament, and, therefore, the Commissioners cannot amend it. I think that that ought to be remedied.

2387. Then, too, I suppose, you would concur with almost every one that the 50*l.* limit should be removed?—Yes, I do; and I might say that a Bill removing the 50*l.* limit passed the House of Lords in 1881; and a Bill to which I referred just now, which amongst other things removed this

Chairman—continued.

this limit, passed the House of Commons in 1890; and therefore, practically, the assent of both Houses has been given to this proposal. It passed unanimously on the Second Reading, I should say.

Mr. *Jesse Collings.*

2388. May I ask whether the same proposal in the Local Government Act was so much opposed that it had to be withdrawn by the Government?—I daresay you are correct, but I do not remember it at the time. Dealing with the 50*l.* limit you mean?

2389. Yes?—I am afraid I have forgotten it.

Chairman.

2390. Have you anything to say upon the point of staff?—I fully agree that if room can be found in the office it is very desirable to have enough staff to examine more into the question of accounts.

Mr. *Donald Crawford.*

2391. With regard to the question of the political pressure, do you not think that there is necessarily a danger of that in all public departments?—Yes, I suppose there is; but you see few public departments have so much judicial work as the Charity Commission. Let it be understood, please, that I do not object to political pressure in any matter of policy; I do not object for one instant to that; but I think where political pressure would act improperly and detrimentally would be in cases which are judicial or semi-judicial.

2392. Yes, I understand; and I suppose we are all at one about that; but then the example that you yourself gave was in a political department, the Local Government Board; and is it not the case that all the more important departments have a very large number of questions of that kind to decide, questions where they have to come to a decision, and where they have to resist improper political pressure; have they not all got a number of cases like that?—I should hardly like to answer the question so generally; I have very little acquaintance with the inside of public departments; the only other office that I know anything of by experience is the Foreign Office, and there we had no judicial work.

2393. You do not feel able to say whether in the Home Office or the Local Government Board there are a large number of determinations of an administrative kind which involve the question of justice and injustice, right and wrong, and where political pressure would be improper?—I have no doubt that there are plenty of such things, but I do not think that the general work of the Home Office or the Local Government Board, or any of these offices is of so judicial a character as that of the Charity Commission.

2394. Are you able to tell us whether a large part of that semi-judicial work does not involve questions of discretion rather than questions of pure law?—It is very difficult to apportion the relative parts. It is now some years ago since I attended meetings of the Board, and my recollection is and the distinct impression upon my mind is that the great bulk of the work was judicial more than discretionary.

Mr. *Donald Crawford*—continued.

2395. In reply to a question, I think by Sir Andrew Scoble, to-day, Mr. Fearon dealt with a particular case, in which there had been an appeal to the court; that instance was selected by him in his examination as an example of judicial business where there was an appeal. To revert to that; that was a case where there was an appeal against a scheme in which, by the terms of the scheme, the charity was taken away from the municipal trustees, and the constitution of the trust was consequently altered; did you happen to follow that?—I am afraid I did not take that all in.

2396. Let us take such a case as that; a case in which a scheme is drawn up by the Commissioners altering the constitution of the Trust. Now that is one of the cases in which there is an appeal to the Court of Chancery; would you consider that when you were dealing with that question it was judicial business or discretionary; have you such cases in your mind?—That partakes of the nature of both, I should say, because the Charity Commission would be bound by any former decisions of the Court of Chancery upon any cases *in pari materiâ*, and yet there might be a reason for departing from some former precedents in that matter; so that it be partly political and partly discretionary. It is very hard to draw a line between the two.

2397. But do you think that no such questions as that there would be any objection in principle to entrusting the decision of a point like that to a large political department?—No, I daresay there would be none.

2398. Is it not very similar to questions of administration?—I do not see any great objection in a case of that kind to leaving it to a minister.

2399. Where there is more strictly legal and judicial work such as you told us of to-day in evidence, and other witnesses have told us of, would it not be possible to reserve an appeal to the Courts of Law in such cases, even if there were a minister placed at the head of the department?—I do not think I quite follow you. Do you mean that certain decisions of the Commissioners may be appealed against and not others; that a line is to be drawn where the appeal can be made and where it cannot?

2400. Yes, I mean that, laying down the general principle; might the principle be laid down that if the decision is contrary to law there might be an appeal. Is not that the case at present? I think one member of the Committee suggested the Board of Customs; is it not the case that the Board of Customs, which being under the Treasury, is a political department, might come to a decision, and frequently does, affecting a man's property, and the payments he has to make, and that that man would have an appeal to a Court of Law, is not that so?—I am afraid I cannot answer that.

2401. They have the power to inflict a penalty. I do not profess to be very familiar with it; possibly you are not either; but would it not occur to you that it must be so, that if the

Mr. *Donald Crawford*—continued.

Board of Customs inflicts a penalty, there must be an appeal to a court of law?—If they inflict a penalty wrongly?

2402. Yes, wrongly?—I suppose, if any department acts against the law, in violation of the law, there is an appeal to the common law against their action.

2403. Is it not a tolerably common thing (I certainly have known instances of it, but I must appeal to your recollection), where the line is laid down by Parliament for a department very strictly, under which it can make certain orders and determinations. Suppose it goes beyond and makes a mistake, is there not an appeal to a court of law to quash such an order as that?—It is difficult to say off-hand; but I should think there was a remedy. There is no wrong without a remedy.

2404. I think you may take it it is so; and do you suppose that that leads to any sense of humiliation, or any conflict of jurisdiction between the department and the law courts; do you suppose that any such feeling exists?—I do not think that a minister is in a better position in the House or the country, if he has been overruled in a court of law.

2405. You mean that no man likes to be found out who has been mistaken, especially a minister?—No, especially a minister.

2406. To sum up what I want to ask you about that, I would put to you this question: As a matter of principle, would there be any objection to handing over the discretionary power of the Charity Commissioners' administrative duties to the decision of a minister at the head of the department, and leaving questions of legal right subject to an appeal to the Court as they are now?—I think the objection to that would be the great difficulty in drawing a line between the two. Might I just add this with regard to what you were saying just now. Going through the number of cases which Mr. Fearon gave us the other day from a page of the minute book, taken at random, I would like to point out that almost every one of them is what I consider a judicial or semi-judicial matter; for example, the first one is the question of dismissing an alms-man.

2407. Just pardon me if I stop you between the department and the Law Courts; do you suppose that any such feeling exists?—I do not think that a minister is in a better position in the House or in the country if he has been overruled in a Court of Law.

2407*. You mean that no man likes to be found out who has been mistaken, especially a minister?—No.

2408. To sum up what I want to ask you about that, I would put to you this question; as a matter of principle, would there be any objection to handing over the discretionary power of the Charity Commissioners' administrative duties to the decision of a minister of the head of the department, and leaving you there; taking a question of dismissing an alms-man, would there be any impropriety in leaving that to a political department?—I would rather not; I think that is just a case where pressure might be brought to bear. This was a question of whether the

Mr. *Donald Crawford*—continued.

trustees were or were not entitled under their scheme or their trust to dismiss an alms-man for some reason or other. The question which the Charity Commission had to consider was whether or not they were so entitled to act. Now, it seems to me that that is a matter which might arouse a great deal of political feeling in the neighbourhood, and that political feeling would be gradually brought to bear upon the minister if he had to decide that question; and I would far rather see a question of that character excluded from the political field altogether. Then, if I might take the next case, the next was the case of whether an allotment could or could not be exchanged under a Commons Act. Well that was clearly a judicial matter. The next was the construction of a scheme, and as to the powers of an incumbent under that scheme. That again it seems to me was clearly a matter of construction, not of law in this case, but of a scheme which had the authority of law, and not one for a political chief. The recovery of charity property, whether or not the evidence was sufficient to warrant an action for recovering the property, and so forth; I think all the cases that Mr. Fearon gave us were very pertinent to my contention.

2408*. Would you consider that the objection on the ground of the possibility of political pressure would be diminished if the Board were put on a footing which has been more than once referred to, namely a similar footing to the Commissioners of Woods and Forests, or the Board of Customs and Board of Inland Revenue; that is to say, sitting in their own offices and acting in their own name, although subject to the control of a member of the Cabinet?—It is difficult for me to answer without a fuller knowledge than I have of the relative position of the Woods and Forests, the Treasury, and the Customs; but I understand that the Woods and Forests Commissioners do not do anything without consulting the Treasury, that they do not grant a lease, or spend 10*l.* without previously getting the sanction of the Chancellor of the Exchequer of the Treasury.

2409. And if that were so (I hardly think that it is, but I may be wrong), should you consider that the question of political pressure would apply equally to such a case?—I think so; I quote that case to show how very dependent the Woods and Forests Commissioners are upon the Treasury; I am urging the independence of the Charity Commission.

2410. You referred to a question of mine, No. 1457. I think that you slightly misapprehended it; I will read it if you have not it by you. The important part of it is, "Does any other example occur to you of a public body paid with public funds, and entrusted with administrative duties, which is not subject to Parliamentary control." You observe, in the first place, that I do not say anything about its being on the vote annually; and, on the other hand, it is administrative and not judicial. Do you not consider that the Railway Commission, Crofters Commission, or the Land Commission, or those bodies are judicial bodies?—They are clearly judicial; I do not know if you call the Public

Works

Mr. *Donald Crawford*—continued.

Works Loan Commission administrative, I should say it was administrative rather than judicial; equally the Friendly Societies Registry.

2411. I do not know the constitution of all them which you have given the Committee; but take for instance, the National Debt Office, is it not the case that the Chancellor of the Exchequer is one of the authorities of that body; do you not think that that makes a considerable difference; he would himself be responsible?—He is probably very much in the same relation with the National Debt Commissioners, that the vice-president was formerly with the Charity Commission; he is nominally a member of the board, but I do not suppose that he acts really.

2412. But do not you think that his presence there would imply the possibility of interrogating him if necessary in Parliament as to the action of the board?—Well, I hope I shall not mislead anybody by giving these instances; I must confess that I have not gone very deeply into each of them; but I have simply taken those in which as far as I knew the Minister was not directly responsible, and as to which I have not noticed that questions are asked; and therefore I have presumed that questions cannot be asked in Parliament of him.

2413. Do not you think that the Lunacy Board is under the Home Office; have they not got to report to the Home Office, and are they not under the Home Office?—Well, they may have to send a report to the Home Office; but I do not think that the Home Secretary could control in any way the work of the Lunacy Commission.

Chairman.

2414. Is it not within your knowledge that questions have been asked with respect to the Lunacy Commission in Parliament?—I do not remember them.

Mr. *Donald Crawford.*

2415. Then, again, the Queen's Proctor; is not that one of the duties of the Solicitor to the Treasury?—Yes; but, as far as I am aware, the Queen's Proctor acts quite independently of any ministerial control.

2416. Is he not under the direct control of the Attorney General and Solicitor General?—I would rather you asked somebody who had a closer acquaintance with the Queen's Proctor than I have.

Chairman.

2417. I do not understand you to put these before the Committee as implying any great or intimate knowledge on your part of these offices?—Not at all; I simply took cases which I found in the Estimates for which money was voted annually, and which, as far as I knew and could discover, were not under direct ministerial control. I may be wrong in several of them, and I think, perhaps, I ought to say at once that, with reference to the Irish Land Commission, the Land Commissioners' salary comes out of the Consolidated Fund, but that all the rest of the machinery of the Commission is voted annually by Parliament.

Friday, 1st June 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Jesse Collings.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Howell.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

Mr. JAMES WILLIAM LOWTHER (a Member of the House), further Examined.

Mr. *Howell.*

2418. I HAVE only one or two questions to ask you; you told the Committee that you had paid great attention to the details of the office during the time that you were there?—Yes.

2419. Let me ask you this: does not the administration of charities, the educational and the others all come very much, if not almost wholly, under Acts of Parliament and Decrees of the Court?—Well, I should say rather the Decisions of the Court of Chancery, precedents set by the Court of Chancery, more than actual decrees.

2420. In some cases they were decrees really standing over, positive decrees, from the earlier investigations under the Act of Elizabeth; those have formed precedents during the whole course of the existence of the office?—Yes, there would be decrees and also schemes of the Court of Chancery.

2421. Taking into consideration the direct provisions of the different Acts, the decrees and the decisions of the Court, and also the fact that all schemes about which there is in great probability a doubt of their getting through Parliament, what I wish to ask is where the political pressure is likely to come under the control of a Minister of State?—I think the political pressure would arise in a variety of cases; in the constitution of the Board of Trustees, for instance; in the making of schemes, and in the objects for which the benefits were to be applied; no other particular instance occurs to me at the present moment, but I should think that there would be many other cases besides those I have named. For instance, I might add the very question which we were discussing a little time ago, viz., a breach of trust. I can well conceive that the Member of Parliament whose constituent is charged or liable to be charged with a breach of trust, would put as much pressure as he could upon the Minister not to decide the case as one of breach of trust, but to make things easy for the friend of the Member, for instance.

2422. Would not that pressure be similarly exercised by his co-trustees as a body?—Do you mean the co-trustees exercising pressure upon the Minister?

Mr. *Howell*—continued.

2423. Exercising pressure upon the Charity Commission, for instance, the department administering the charity; would not pressure occur there in like manner?—No pressure could occur, because there is no power in the trustees to vote against the board. What I call the political pressure arises from the fact that every Member of Parliament has it in his power at any moment to vote against a Minister with whose decision he quarrels, and he is thereby able to put the Minister or the Government even in a very difficult position. Such pressure, of course, it is not in the power of trustees in the country to exercise.

2424. I know that is so; but I rather wanted to see if I could where the pressure would come in adversely if charities were under what we have called a Minister of State any more than it comes in now, being exercised by trustees, by influence upon the Charity Commission itself?—I have no doubt that the trustees at the present time would lay their case before the Commissioners, but there is no sanction to any action which they can take; they cannot enforce their views in any way. A Member of Parliament to a certain extent could.

2425. You remember, in the Committees of 1886 and 1887, cases were brought forward with regard to the pressure of trustees in cases of allotment. For example, did not trustees at that time, apparently upon the facts, exercise pressure (call it by what name you please), upon the Charity Commission by threatening, for example, to resign?—That is not the kind of pressure to which I am referring at all. I quite admit that they showed a great deal of resistance, and used threats possibly in that way; but that would be totally different from the kind of political pressure which I am very anxious to avoid.

2426. Admitted; but what I wanted rather to see was where would be the danger to the charities themselves and their administration from the pressure of the one kind as against the pressure of the other kind?—I think the danger would arise from the fact that a knowledge would get abroad

Mr. *Howell*—continued.

abroad that it only required a certain amount of political pressure and a certain number of Members of Parliament pulling at the strings of a Minister to obtain such decisions as the locality desired, and not such decisions as were according to the strict letter of the law.

2427. Are we not to some extent subject to that same kind of pressure when any schemes are brought before Parliament now?—Yes, that is so; but that is more a matter of policy than of strict law. When a scheme is laid before Parliament, the question which Parliament has to decide is not a question of the legality or the illegality of the scheme, but a question of the policy or the impolicy of the provisions of that scheme; and, of course, upon that political pressure is exercised, and I suppose always will be exercised. I do not think it is as harmful as the other.

2428. You spoke with reference to the legality or otherwise of the acts done; is there not a less likelihood of pressure with reference to legal questions taking place than with reference to matters of policy; are they not already governed by a large body of laws, and decrees and judgments and precedents in the office?—They are governed by them in a sense, just as you may say that every judge of the High Court of Justice is governed by the cases, and the precedents set by former tribunals; but in one sense he has a judicial discretion. If the case was absolutely clear, and governed by former precedents, of course it would not come into Court at all; but it comes before the Court because there is a doubt as between conflicting precedents; and in those cases the judge exercises a judicial discretion.

2429. Are those classes of cases numerous so far as your experience at the office went?—Yes, that is my recollection. I said in evidence last Wednesday that although I could not give any figures, and although my recollection is now two or three years old, yet the impression left upon my mind was that the bulk of the work that came before the Board was of a judicial or *quasi* judicial nature.

Mr. *Oldroyd.*

2430. In your evidence on Wednesday last you spoke of the work of the Commissioners being, in the main, or very largely, judicial in its nature?—That is my recollection of it.

2431. And I think you said that it was more so in the case of this body than in any other department of State?—I have forgotten the exact words I used, but I will accept that as my statement.

2432. And afterwards, on questions being put, you admitted that there is more or less of judicial work in other departments of State; the Local Government Board, for instance?—Yes.

2433. That is to say, construction of Acts of Parliament?—Yes.

2434. But you said that, so far as your experience of the Foreign Office was concerned, you were led to the conclusion that in that department there was no judicial work?—I should say, no judicial work at all.

Mr. *Oldroyd*—continued.

2435. But is it not the fact that in that department they have to construe treaties?—Yes.

2436. Is not that judicial?—No; policy.

2437. In arriving at the real meaning and construction of a treaty, and also in questions of international law, is there not a judicial function exercised, in the same sense as construing an Act of Parliament is a judicial function?—No, it is not judicial in the sense I shadowed out when speaking of the judicial work of the Charity Commission. In the Foreign Office we are not sitting as judges between two litigant or quasi-litigant parties. In construing a treaty the Foreign Office would naturally press forward their view of the treaty in what were the interests, or what they considered to be the interests, of British policy; they have no judicial functions to perform in the sense of deciding as between one party and the other. They are advocates more than judges.

2438. In the case of the Foreign Office they are not called upon to decide between two litigant parties, but those parties may become litigious and quarrelsome, and even at war, as the result of the construction put upon a certain treaty, or a certain point of international law; so that in that sense it is a more extremely important a judicial function than in the case of a mere decision of a point of construction in the settlement of a charity?—Well, whether you go to war or not is not a matter for judicial decision; it is a matter of high policy.

2439. Leaving that, granting for the purpose of the question that there is a great deal of judicial work done by the Commissioners, is it not a fact that their judicial work is very much lightened by the establishment of a bulk of precedents, a large volume of precedents upon which decisions are based?—I do not think so. It is said that you can always find a precedent for everything. If there are precedents one way there are equally precedents the other way; and the difficulty of a judge, and the difficulty of a Charity Commission is to steer an even keel between them. They have to be weighed and considered, and their relative bearing upon the case before the board has to be considered by the board; just as a judge at the present time considers the facts of the case before him, by the light of precedents in times past.

2440. If, as you say, there are precedents both ways does not that make the judicial work all the easier, because they cannot go wrong?—No: I think they are as likely to go wrong as a judge.

2441. If there are precedents both ways, whatever decision they arrive at, in however ill-considered a fasion, they can rely upon either one precedent or the other, is not that so?—You might say that of a judge, that it does not matter which way he decided; that he might toss up a coin and if it came down heads, decide for the plaintiff and if tails for the defendant, and he is bound to be right, because there are precedents both ways. But the difficulty of the Commission of course is to see how far the actual case before them does fit in with the precedents on one side

Mr. *Oldroyd*—continued.

or the other; they have just the same work in fact as a judge has.

2442. But is it not a fact arising from the innumerable cases which have already been settled by the Commissioners, that it is almost impossible to bring a new case which does not run on all fours with some preceding case?—No, not at all; I think there are a great number of cases which are decided at once by precedent, and if there is no shadow of doubt about them they do not come to the Board at all. The Commissioner in charge of them says: "This case is really governed by such and such an one, the principle of which was established by the Board; I am therefore justified off my own bat in deciding that case in that way"; and it is only cases where there is any doubt at all in the mind of the Commissioner that come before the Board for their consideration.

2443. Then the exercising of the judicial function is limited entirely to cases involving new matters of fact or principle?—Speaking generally, I should say yes.

2444. Now referring to the question of political pressure, any minister appointed to have responsibility for the action of the Charity Commissioners would in an official sense exercise this judicial function which is now exercised by the Commissioners?—Yes.

2445. It would be transferred to him nominally?—Yes.

2446. But is it not a fact that he would have behind him and at his call the permanent chiefs of the office, as is the case in other departments?—He would be obliged to rely upon them.

2447. So that in the discharge of his ministerial duties he would be nominally responsible, but as a matter of fact his decisions would be guided by the heads of the office, as they now perform that function on their own responsibility?—Should be guided, yes.

2448. With regard to the political pressure, which I suppose you conceive might induce him to deviate from the proper line of duty, is it not a fact that that pressure would come from some individual constituency in each case; it could not involve interests extending beyond one individual constituency?—I think it could. I would quote the case, although I am not very familar with it, of Betton's Charity for example, which is spread over the whole kingdom.

Mr. *Jesse Collings.*] That is an exceptional case?

Mr. *J. W. Lowther.*] Or you might take the case of Christ's Hospital, the benefits of which are not limited to one locality, but to the whole of London, and even beyond, to Middlesex. I think, by reference to the Blue Book, I could find a number of general charities, but in regard to Betton's Charity, the benefits of Betton's Charity are co-extensive with the limits of England, I think, including Wales, and there might arise from a great number of quarters pressure upon the Minister; it would not be limited to one Parliamentary division.

2449–51. Do you think it would be so distributed as to become really, and, in fact, a source of pressure to the minister concerned?—I think it might.

Mr. *Oldroyd*—continued.

2452. But would he not be able, as ministers are now in other departments, to shift the responsibility from himself on the ground of precedents already established and the usage of the office?—Well, you see it would be a new office; therefore, he could not rely upon the usage of the office, and if he shifts the responsibility from himself, then we revert to the present state of things; there is no use in his being there. The only object of his being there is in order that people may consider him responsible. I will put it in this way: Either he is responsible, or he is not responsible. If he is not responsible I do not see the use of him; if he is responsible then I think he is, I do not say necessarily subject, but possibly subject to pressure which may be brought.

2453. Then, do you anticipate that the acts of a minister in these matters would be regarded as on party lines?—It is so difficult to say where the pressure would arise; in some cases it might be only party lines; in others it might not; and the chief danger would arise from the cases that are not on party lines, where the supporters of a minister brought pressure to bear upon the minister.

2454. But do you not think it beneficial and advisable that public opinion in the district concerned with the charity in question should be brought into play upon the Department?—I think it very advisable that the feelings and views of the district, so far as they are relevant, should be fully before the Commission before they decide upon the matter, but after the decision is given I do not think that it signifies.

2455. Your apprehension is that a pressure beyond what was fair and reasonable and proper might possibly be exercised?—Yes.

2456. But would it be more, or could it possibly be more, than in the case of, say, a private Bill promoting a railway for instance, such as we had before the House last week in the case of the Cornish Railway; could the pressure be greater than it was on that occasion, when the whole of the district concerned were almost unanimous against the proposal of the Committee?—I am afraid that I thought that was a very bad precedent; for the House, which had not heard evidence, overruled a Committee which had; I supported the Committee on that occasion. I am afraid I cannot accept that as a good precedent for the future.

2457. But still I ask the question, not whether it was right or proper, but could the political pressure be greater than it was on that occasion when the whole of the district were practically unanimous in their verdict against the decision of the Committee?—No, I do not think the pressure could be greater than that. Of course, no minister was charged with that Bill; it was a Private Bill.

2458. But what I wish to point out is this: that when the question came to be decided by the whole House, party considerations were not brought in there at all; but the deliberate judgment of the House on the facts of the case brought

Mr. *Oldroyd*—continued.

brought before it was given?—It was, on such facts as were brought before it.

2459. Do you consider that there was in that case pressure of a political sort?—I am given to understand that there was a good deal of lobbying; but I again enter my protest against that case. I think it was mischievous. I do not approve, I never have approved, of the House of Commons overruling a Committee after it has deliberately sat and given judgment, unless it be in some great matter of principle being considered for the first time.

2460. Then you think that the action of the Charity Commission ought not to be through ministerial responsibility brought within review of the House?—I think not, so far as judicial or *quasi* judicial matters are concerned, and I see great difficulty in dividing those from matters of policy.

Mr. *Jesse Collings.*

2461. There is one point only that I want to ask you about. At present when a scheme of the Charity Commissioners is brought before the House, is it not as a matter of fact treated more or less as a non-party question?—I think not; I think the Government tellers are always appointed to support the Vice-President of the Council.

2462. Is not a case within your recollection where notice of opposition was given to the Dauntsey Scheme, where the then Leader of the House, Mr. W. H. Smith, was opposed to the scheme, and took the view that each member was at liberty to vote regardless of party pressure?—My recollection is not very clear about that matter, but I think the scheme was approved by the preceding Government.

2463. That was a previous scheme; but leaving that, do you not consider it an advantage that a scheme of the Charity Commission brought before the House, should be treated as a non-party question, that is to say, treated on its merits?—All cases are supposed to be treated on their merits which come before the House of Commons.

2464. Then I will say treated as a non-party question?—No, I think that the Vice-President of the Council having once approved of the scheme would consider that it was a vote of censure upon him if the scheme which he had himself approved were to be rejected by the House; and it would be a vote of censure; and, therefore, he is entitled, as far as any Minister is entitled, to use the Ministerial majority to carry his scheme.

2465. But it has not hitherto, has it, been regarded as a vote of censure by the Vice-President of the Council when schemes have been rejected of which he has approved?—I recollect no instance of a scheme being rejected in the face of the Vice-President of the Council. If the Vice-President of the Council is prepared to withdraw his scheme, or submit to its being rejected for the purpose of bringing forward another, that is quite another matter; but I cannot recollect, and I am not aware (the Right honourable gentleman will correct me if I am wrong) of any instance in which a scheme approved by the Education Department has been rejected by the House of Commons.

Mr. *Jesse Collings*—continued.

2466. By Parliament; the Dauntsey Scheme was rejected by Parliament after it had been approved by the Department?—With the consent of the Government of the day.

2467. I take it to be so, with the consent of the Government; at any rate, it had been approved by the Department, and yet the Vice-President did not see that he himself was called on to protest?—Because he was a consenting party to its rejection.

Chairman.

2468. Can you give any instance in which after a scheme has been approved by the Vice-President of the Council, the matter has been left an open question in the House of Commons by the Government?—No, I cannot.

Mr. *Jesse Collings.*

2469. Do you think it advisable to make it a still more party question by having the scheme brought into the House under a responsible Minister in charge of that scheme such as has been suggested in the course of the examination here; would not that make it more a political party question?—No, I do not think it would; I think the mere fact that the Minister has prepared the scheme as well as approved it would not make it more of a Government scheme than it is at present.

Mr. *G. Russell.*

2470. Referring to your evidence last time, I think a question was put by Mr. Crawford towards the end of the proceedings in reference to this matter of the control of the Charity Commission by a Minister of State. I have not got the evidence before me at this moment, but I think the substance of it was this: Mr. Crawford's question was a suggestion to the effect that the Lunacy Commission, as things are at present constituted, was under the Home Office?—Yes.

2471. And the suggestion was that the Home Office could control the action of the Lunacy Commission, I think?—Yes.

2472. I do not know how otherwise to put it in the form of a question, but to use a formula which is recognised, would you be surprised to hear that the Lunacy Commission is not under the Home Office in any effective sense; that the Home Office does not in any way control or direct the action of the Lunacy Commission?—I should not be surprised to hear it. That was, indeed, the reason why I brought forward the case of the Lunacy Commission.

2473. Your impression then would accord with mine, that if there is any relation between the two offices at all, it does not extend to power or direction or control being exercised by the Secretary of State over the action of the Lunacy Commissioners?—You are in a much better position to judge than I am; but that is what I conceive to be the relation between the departments; and that was why I quoted it the other day as a case of an independent or semi-independent public body.

Mr. *Griffith-Boscawen.*

2474. Mr. Donald Crawford, at Question 2394, endeavoured to draw a distinction I think between the kind of law that they have to administer in the Charity Commission and ordinary law; and asked whether their work did not involve questions of discretion, rather than questions of pure law. Is not the distinction really this: that the Charity Commission has to administer what I may call Chancery law rather than statute law or common law?—Yes, it has received the inherent jurisdiction of the Court of Chancery.

2475. And that is the real distinction; it is between ordinary law and Chancery law?—Yes.

2476. In fact, to subject that sort of work to Parliament would be the same thing as subjecting the decisions of a Court of Chancery to Parliament?—Well, the Court of Chancery deals with a great number of other matters, of course.

2477. Then may I put it this way: It is the same thing as subjecting part of the work of the Court of Chancery to Parliament?—It would be, certainly.

2478. And that is not a course you would recommend?—No, I do not think it is desirable.

2479. I think, in answer to questions by the Chairman, you stated that much greater interest had been taken in the work of the Charity Commission in recent years, as shown by the number of questions and the length of debates. Now did you feel, when you were at the Charity Commission, that you were quite able under the present system to cope with that greater amount of interest?—Yes, I think so. I think I felt that I knew (if I may be allowed to say so) as much about the work of the Charity Commission when I was defending the Department than a good many of its critics.

2480. I was not speaking personally, but I mean under the present system; you think you were quite as able to defend the Charity Commission as you would have been if you had been a Minister; I am not speaking personally, of course?—The Minister, of course, would be in closer attendance at the Charity Commission; there is no doubt he would have a room in the office, and, of course, he would see a great deal more of the work of the Commission than the fourth Parliamentary Commissioner who had no room at the office, and did not take any part in the current work; and therefore he would be in a better position to answer questions straight off than the Parliamentary Commissioner who naturally has to receive his information to a great extent from his colleagues.

2481. On the other hand, not being a Minister, you were in a position of greater independence?—Yes.

2482. And you do think that the present system is adequate to meeting the public interest in the work of the Commission?—I think so. It has only been going since I was appointed in 1887; that is only seven years. I think that it has fairly met all the demands that have been made upon it.

Sir *Stafford Northcote.*

2483. May I refer you to page 159 of your evidence. The Chairman asked you questions especially with reference to a Bill introduced by Mr. Rathbone which you endeavoured to help through the House. Might I ask whether from your Parliamentary experience you would think that a Bill not strictly a Ministerial Bill, but still one favoured by the Government, would have a greater or less chance of passing through the House than a strictly second-rate Ministerial measure?—I think that very often the fact that a Bill is introduced by the Government arouses opposition to it which otherwise it would not meet with.

Chairman.

2484. Upon that last question perhaps you will allow me to put this further question to you: Is it not a fact that from our Parliamentary procedure there is less and less chance of any unofficial Member promoting successful legislation?—That is what we were contending for yesterday. That is so; but I do not wish to limit myself solely to the unofficial Members; I think that the difficulty of passing Bills of any sort is becoming greater and greater.

2485. Is there any other evidence you wish to give?—There is just one point that I wish to clear up, that I have made myself acquainted with since our last meeting. The honourable Member on your right (Mr. Donald Crawford), asked me some questions with reference to the relations of the Commissioners of Woods and Forests towards the Treasury. I have been furnished by the Woods and Forests Commissioners with a statement which shows (perhaps I had better quote the exact words) that, "no purchase or sale exceeding 100*l.* in value, and no exchange, lease, or grant can under Section 60 of the 10th George IV. chapter 50, be made by the Commissioners without previous Treasury authority signified by Warrant." I am afraid I made a mistake when I said 10*l.*; it ought to have been 100*l.*

2486. May I refer you to your answer to Question 2417. I do not understand that in giving us this catalogue of Departments you desired to suggest to us that you had a thorough or entire acquaintance with those offices?—No; nor that I had carefully considered the relationship. I ought, perhaps, to have been more guarded before putting the catalogue in; but I thought it would be useful to the Committee because we can inquire for ourselves, and see how far it is strict evidence.

2487. But we must take it with strict reference to your evidence now given, and your answer to Question 2417?—Yes, if you please.

Mr. DANIEL ROBERT FEARON, C.B., re-called; and further Examined.

Mr. *Jesse Collings.*

2488. WITH reference to a previous answer which you gave to a question put to you, it was to the effect that, in the case of all schemes made under the Endowed Schools Acts, copies of those schemes were sent before being finally decided on to town councils and local authorities; that was so?—Yes, particularly county councils.

2489. Is the same plan adopted with reference to schemes made under the Charitable Trusts Acts?—As regards municipal authorities, the councils of municipal boroughs, it is; that has been a standing rule of the Commission for some time past; but as regards county councils the rule is not so universal.

2490. Since when has that plan been adopted of sending schemes under the Charitable Trusts Acts to municipal councils?—That practice, which is not a statutory requirement, but is a practice of the Commissioners, was put in force in pursuance of a minute of the Board to that effect; 1886 is the date of the first minute I find on the subject.

2491. Then with reference to giving such notice, it is within the discretion of the Commissioners whether they should do so or not?—Sending copies of the scheme to a municipal council, unless it happens that the town council is the governing body is a matter within the discretion of the Commissioners.

2492. Before 1886 it was not a practice?—It was not an established uniform practice; it was a matter of discretion.

2493. Do you think that in any alteration in the law it should be obligatory on the Charity Commissioners to do that, to send not only to town councils and county councils, but to all elected municipal bodies, local bodies?—I see no particular objection to it.

2494. On a previous occasion I was asking you with reference to the schemes made under Section 9 of the 1869 Act, and it was then stated that the Charity Commissioners had power to make considerable alterations in existing trusts, to make new trusts in fact, and to add fresh provisions and even to move the site of the establishment altogether; that is included within their powers?—Yes.

2495. Can they also take the endowments of any existing foundation, and apply the income to scholarships and exhibitions in places outside the area in which the foundation exists?—Subject in the first place to all the restraints on their action and checks upon their procedure under the Endowed Schools Acts imposed by the Acts, and subject in the second place to the express statutory requirement that they shall have due regard to the educational interests of the inhabitants of a particular area or others, where those interests are abolished or modified, the Commissioners can do that.

2496. And in removing a school, say from a parish to 10 miles off, they think they are fulfilling those obligations?—I must ask you to ask the Commissioners themselves what they think on such a matter as that.

2497. As a matter of fact, might I ask if such schools have not been removed?—It has been an extremely rare thing that any endowments under the Endowed Schools Acts have been removed from one site to another; it has been extremely rare, but it has happened.

Mr. *Jesse Collings*—continued.

2498. In cases of schemes of this kind varying a trust, are there not certain vested interests that you are bound to consider?—Yes, that is so; the 13th section of the Endowed Schools Act, 1869, classifies and defines them.

2499. Would you state what they are shortly; masters and teachers, and officers and caretakers?—The shortest course, I think, would be to read the provisions of the section, with your permission: "It shall be the duty of the Commissioners to provide in any scheme for saving or making due compensation for the following vested interests, namely: 1st. The interest of any boy or girl who was at the time of the passing of this Act" (that is the 2nd of August 1869) "on the foundation of any endowed school; 2ndly. The tenure by any person of any exhibition dealt with by any such scheme which was held by him at the time of the passing of this Act; 3rdly. Such interest as any teacher or officer in any endowed school appointed to his office before the passing of the Endowed Schools Act, 1868, may have; 4thly. Such interest as any person may have in any pension or compensation allowance to which he was entitled at the passing of the Endowed Schools Act, 1868; 5thly. Such interest as any member of the governing body of any educational endowment appointed to his office before the passing of the Endowed Schools Act, 1868, may have in any emolument payable to him as such, or in any right of patronage which has a marketable value, and is capable of being sold by him." And then to that is added this provision: "It shall also be the duty of the Commissioners in any scheme relating to any endowed school to have regard to the rights of patronage which may be at the passing of this Act exercised by any member of the governing body of such school in consequence of any gift or donation made by him."

2500. Then might I ask you if the inhabitants of a locality are considered to have any vested interest under that 13th section; or let me put it in this way: Suppose a founder left an endowment for the poor of a parish for free education, clothing, starting in life and other privileges, which old, pious founders were apt to put in; and the Charity Commissioners made a scheme under Section 9 by which they varied all these trusts, diverted them from I will say from the purposes of education, have the inhabitants as inhabitants of that parish, any vested interest such as the masters, teachers and others have under Section 13?—That of course in each case would be matter of appeal and judgment before the Judicial Committee of the Privy Council, which is the court specially provided for trying legal matters in regard to schemes under the Endowed Schools Acts; but subject to that remark I think the best reply that I can give to the Right honourable

Mr. *Jesse Collings*—continued.

Member is to refer him to the judgment of the Judicial Committee in the case of John Shaftoe's Charity at Haydon Bridge.

2501. Is that the one I referred to at the last examination; I was not able then to give you the date?—I am disposed to think that that is the case; but I propose with the permission of the Committee to read a short account taken from the Law Reports of the effect of the judgment.

Chairman.

2502. Could you summarise it in two or three sentences?—The head-note to the Law Report summarises the case and judgment in two or three sentences.

2503. Perhaps you will give us that?—"A petition having been presented against the scheme of the Charity Commissioners relating to certain endowed schools by some inhabitants and ratepayers on the ground that they and the class represented by them had the right by the founder's deed to have their children taught free of expense in the school, and that this right would be taken away or subject to change by the scheme: *Held*, that the appeal could not be entertained. No individual petitioner complained that he had a child at the school whose status would be interfered with; and the general interest of the class under the founder's will did not come within the category of "vested interests saved" or required to be saved by the Endowed Schools Act, 1869."

2504. What was the date of that?—It was heard on the 6th of June 1878, before the Judicial Committee.

Mr. *Jesse Collings.*

2505. Then we may take it that according to the decision of the Judicial Committee the inhabitants as inhabitants have no vested interest under Section 13, and therefore no right of appeal against the provisions of the Charity Commissioners' Scheme?—That was the decision in that case.

2506. I am not complaining of the decision; I simply want the fact?—That was so.

2507. So that we have it that the officials, masters, teachers, and even down to the caretakers, have vested interests in an endowment, and consequent right of appeal in any case where they feel aggrieved; but the people themselves, to whom the property was left, have no vested rights, and consequently no right of appeal?—I have no authority to extend the judgment of the Court beyond the terms in which that judgment was given.

2508. Then might I ask you, is it not necessary in your opinion to so alter the machinery as to give a further protection to the inhabitants or, what I venture to call the proprietors, the people to whom the property was left?—I am content with the law as it now stands and has been interpreted.

2509. Then, with regard to petitions to the Department: In the case of schemes finished by the Commissioners and approved by the Department, with regard to petitions that such schemes shall be presented to Parliament, by whom can such petitions be presented?—The Right hon. Member is now speaking of schemes under the Endowed Schools Acts?

2510. Yes; I am confining myself to those?—By the governing body of the endowment to

Mr. *Jesse Collings*—continued.

which the scheme relates, or by the council of any municipal borough directly affected by the scheme, or by any inhabitants, ratepayers, not less than 20 of any municipal borough or place directly affected by the scheme. That provision applies to England except Wales and Monmouthshire, where it is varied.

2511. Now, you mentioned something about the Due Regard Clause; in dealing with non-educational endowments, such as endowments left in money or kind for apprenticeship purposes and advancement in life, and the other privileges for which endowments have been left by donors, the Charity Commissioners have power, with the consent of the trustees, to apply all the income intended for these purposes to education?—Yes.

2512. Can you initiate a scheme with reference to such endowment under Section 30?—In one sense such a scheme can be initiated: that is to say, that the Charity Commissioners can approach the trustees on the question; but no scheme can be made without their consent to that effect.

2513. Does the 50*l.* limit apply to that 30th Section of the Endowed Schools Act, 1869?—No, in no way.

2514. Might we take it that the sections of the Act, both Section 30 and Section 11, are very emphatic with regard to considering the educational interests of persons in the same class of life that were already in enjoyment under the old foundation?—Yes, as defined by Section 5 of the amending Act of 1873; that is so.

2515. So that somewhat strengthens the safeguard?—It defines it, and makes that about which there might have been a doubt, clear.

2516. In other words, Section 5, in the 1873 Act, extends that safeguard to persons in any particular class of life?—Yes.

2517. So that if the endowments are left to poor persons, all persons in a poor class of life shall have their interests safeguarded?—Yes.

2518. Might I ask whether the Charity Commissioners are the judges as to whether these Due Regard Clauses have been sufficiently observed?—They are not the ultimate judges.

2519. Have they the powers of the Court of Chancery, for instance, in deciding as to what alterations are sufficient, or what provisions in their new schemes are sufficient to compensate for the privileges which they have abolished?—The jurisdiction and the powers of the Court of Chancery do not come into consideration in regard to the Endowed Schools Acts; we are now on another legal plane altogether.

2520. I am aware of that. I was asking whether, having regard to your powers of diverting or altering (I wish to use the most civil term, and so I will say, "of altering") the terms of a charity, your jurisdiction is not similar or even equal to the Court of Chancery when they are dealing with the *cy-près* doctrine under another class of charities?—I should prefer not to institute a comparison between the jurisdiction of the Charity Commissioners and that of the Court of Chancery as regards this particular Act; but as I have already said to the Committee the Charity Commissioners acting under the Endowed Schools

Mr. *Jesse Collings*—continued.

Schools Acts are not tied by such ordinary doctrines of the Court of Chancery as that of *cy-près*; but, subject to the limitations and provisions imposed by the Endowed Schools Acts, can make new trusts, directions, and provisions, so long as those provisions are directed towards the rendering of any educational endowment most conducive to the advancement of the education of boys and girls or either of them.

2521. And we have heard in connection with that, that notwithstanding any feeling of being aggrieved which the inhabitants may have, they have no power to appeal against it?—I should like to be permitted to take the greatest possible exception to that view of the matter on the part of the Right honourable Member. They have the most elaborate, the most carefully provided and worded safeguards, I think, and opportunities of objecting and appealing that I have ever known in the course of any jurisdiction in this country.

2522. But I thought we had got by previous answers to this position; that the inhabitants to whom a charity was left had no legal vested interest, and consequently no right of appeal?—I objected to draw any such general conclusions from the particular case which I read to the Committee, saying, if I recollect right, that I declined to enlarge the terms of the court's judgment in that matter.

2523. Has it not been decided by the Judicial Committee of Council that the inhabitants of a parish to whom an endowment has been left have no vested interests under Section 13; and is it not the case that the appeal in the case of Shaftoe's Charity was dismissed in consequence of its being decided that they had no vested interest?—If the Right honourable Member is not satisfied with the statement from the summary in the Law Reports, I think it may be put in these words, that the judgment in that case was to this effect: that the inhabitants of a particular area having general privileges or educational advantages which are abolished by a scheme, are not for the purposes of that particular section, and the 39th Section of the Act of 1869, persons directly affected, unless they can show that they actually have children at the school whose status will be interfered with by the scheme.

2524. The inhabitants as ratepayers of Shaftoe's Charity at Haydon's Bridge petitioned the Queen in Council, urging (these are the words) that by the founder's deed the petitioners had a right to have their children taught free of expense, which right the Charity Commissioners' scheme took away. Now I want to ask is it not a fact that that appeal was dismissed by the court on the ground that the inhabitants as such had no vested interests?—No, the appeal was dismissed on the ground that they were not persons directly affected.

2525. That amounts to the same thing, they had no vested interest under Section 13. Now might I ask what the practice of the Commissioners is in giving compensation, what kind of compensation the Commissioners give for these privileges which are altered or diverted or taken away by the scheme?—I think with the approval

Mr. *Jesse Collings*—continued.

of the Chairman and of the Committee, I should much prefer if the Right honourable Member would ask that question of the Chief Commissioner or other Commissioner, because it appears to me to touch upon a question of policy with which the secretary has nothing to do, and with the details of the administration of which he is but imperfectly acquainted.

2526. I have no wish to ask you any question of policy; I thought it was rather a question of fact as to whether scholarships and exhibitions of different kinds were not the compensation almost invariably inserted in the schemes of these Commissioners in lieu of or in compensation for the privileges of various kinds which have been taken away?—If it were the view of the Chairman and the Committee that I should answer that question, I should require I think in any case a little time to prepare myself with the voluminous and intricate details of the cases from which I should have to draw such a conclusion as that; but I think I understand that the Committee proposes to have some further evidence at a later stage from the Chief Commissioner. I do not think that I can give any answer which will be satisfactory to the Committee, or do justice to the Board off-hand on such an important matter as that.

Chairman.

2527. May I put this to you, do you feel yourself, as Secretary to the Commission and not a member of the Board, precluded from going into questions that involve matters of policy?—Yes, subject to your ruling, I think, it is most undesirable that I should do so.

Mr. *Jesse Collings.*

2528. My question was simply this: whether in all, or nearly all, the schemes framed by the Charity Commissioners, exhibitions and scholarships were not the means, and also the sole means, by which compensation was given to the people of a parish whose endowments had been varied or altered, and sometimes taken away?—I do not think that would be a sufficiently accurate and complete account of the facts; but I am not prepared to substitute the really accurate and complete account without preparation.

2529. There is another question on a similar point, with reference to endowments which come under Section 29, where we have an educational endowment to which is attached money left for maintenance, clothing, apprenticeship, and other advantages for the benefit of poor children, money for all these objects can be deemed to be educational in any new scheme and devoted to education?—My answer is, those endowments are constituted by the Act educational endowments.

2530. And can you devote the income intended for all these purposes to education without the consent of the governing body?—So far as the endowments come under that Section 29 they can be so devoted.

2531. Does the section allow the Commissioners to devote them all to education without the consent of the governing body?—Yes.

 2532. And

Mr. *Jesse Collings*—continued.

2532. And that is done?—Yes, I have known that section acted upon.

2533. Might I ask a question, to illustrate my meaning, about a case of a quite recent origin; I refer to the Bluecoat School of Birmingham, which for some centuries now has clothed, educated, and maintained a number of orphan and destitute children; might I ask if the scheme (for which another was lately substituted) of the Charity Commissioners proposed to take away the maintenance part of that endowment; in other words, no longer to permit the trustees to board and maintain the orphan and destitute children whom the charity at that time was exclusively intended for?—There has only been one scheme in the case; but probably what the Right honourable Member means is this: that the scheme as originally put out has now been considerably modified. It is the same scheme (I think I gather what the Right honourable Member means); only one scheme has been put forward; but that scheme has been considerably altered in the course of the procedure.

2534. Then I will put it that way: Before that considerable alteration was made, did not the Charity Commission propose to abolish the maintenance part of the work of the Bluecoat School?—They did not.

2535. To considerably reduce it?—No.

2536. Have you considered (I do not know whether this is a proper question to ask; if not, you will not answer it; I will postpone it) whether some alteration is not necessary both in the law and administration in the hands of the Charity Commissioners to protect such schools and such institutions from being subject to having their operations changed in this manner to the detriment of the poorer classes?—I think that what has happened in this particular case is a good illustration of the fact that no further means of opposing the proposals of the Charity Commissioners than those which exist are required.

2537. But am I not right in stating that the alteration was only made after the utmost agitation from all quarters in a very powerful borough; and may I ask whether such alterations would be likely to have been made if such a scheme had existed in a remote country locality?—I am unable to estimate those probabilities; but I know this, that the Charity Commissioners give the most careful and attentive consideration to objections or suggestions derived from the smallest and humblest quarters.

2538. At any rate, it is from the concession or will of the Commissioners that the alterations were made, not from any powers possessed by any outside body.?—No, it is out of consideration for the nature of the suggestions and objections made to their proposals.

2539. I have heard what you said about a Minister of State; might I ask you if the same end would not be attained if the schemes of the Charity Commissioners were referred to a Parliamentary Committee in a manner similar to that in which schemes made under the Commons Act are referred to a Standing Committee of the House of Commons?—My observations on the

Mr. *Jesse Collings*—continued.

question of placing the endowments under a Minister of State were made in, as I hope, the logical development of the position in which I find myself upon a consideration of this matter. It seems to me, with all respect to the Right honourable Member and the Committee, to be a totally different consideration whether an advantage would be gained from having every scheme which is made by the Charity Commissioners referred to a Standing Committee of the House. I was upon a very much larger question, the question, namely, whether the necessity of placing all control of secondary education under a great Minister of State, coupled with the extreme difficulty which I find, and cannot solve, of dividing between the legal and the educational administration of educational endowments, would not necessitate the reference of the whole administration of endowments as well as of secondary education to the Minister. That, the right honourable Member would probably agree with me, is a larger and wider question, and stands on different ground altogether from the question whether it would be desirable for any reasons whatever to refer all schemes made by the Charity Commissioners to a Committee of the House; but, subject to that observation, I do not think it would be desirable.

2540. Do you see any practical difficulties in the way?—I think it would stop work.

Chairman.

2541. You have already given an answer to that effect?—I think I have.

Mr. *Jesse Collings.*

2542. Might I ask how many schemes the commissioners publish in the year under the Endowed Schools Acts, roughly?—All those detailed particulars will be found by the Right honourable Member in the Annual Report to the Queen in tables at the end of that annual report.

2543. I find then, for certain years varying between 20 and 30, under the Endowed Schools Acts the number published; would there be any practical difficulty supposing them to be about 20, or 30, or 40?—Speaking now of schemes under the Endowed Schools Acts?

2544. Of the schemes published?—Would there be any difficulty, the right honourable gentleman means, in having all school schemes published under the Endowed Schools Acts referred to Parliament?

2545. The number of schemes being taken roughly at 40 per annum under the Endowed Schools Acts, would there be any practical difficulty in referring these schemes to a Standing Committee of the House of Commons as a matter of time and delay of work?—Yes, I think there would be the gravest difficulty.

2546. Might I ask you, supposing the schemes published by the Charity Commissioners under he Endowed Schools Acts were referred to a Parliamentary Standing Committee, whether such reference would largely delay the work?—I think it would.

2547. To any large degree?—Yes, to a very large degree.

2548. Is

Mr. *Jesse Collings*—continued.

2548. Is that your only objection to such a reference of the scheme, delay of work; do you see any other difficulty or objection to it?—That to my mind is sufficient objection.

2549. Now, with reference to the Welsh Intermediate Education Act: you stated that you had no power to initiate schemes under the Charitable Trusts Acts without the consent of the Education Department, and no power to initiate schemes under the Endowed Schools Acts without the schemes having been submitted to the Commission by the Joint Education Committee of the county or the borough under Section 5 of the Welsh Intermediate Education Act. The question I want to ask is, do you see any objection to applying those same provisions to the English Charitable Trusts Acts and Endowed Schools Acts?—You must first establish the Joint Education Committees and the other machinery of the Welsh Act; that does not exist; and the other condition, namely, the machinery for providing a complete system of secondary education in England, exclusive of Monmouthshire, for which amongst other things these Joint Education Committees were formed, has not yet been entered into.

2550. But might we not get over the difficulty by the county councils appointing an education committee as they have appointed an allotments committee. My object in asking the question is this, to ascertain from you whether such a committee, if they had power to initiate a scheme, would not be more likely to do so in accordance with the interests or supposed interests and feelings of localities under their government than the Charity Commissioners are likely to be?—I may frankly say to the Right honourable Member that I should be most distinctly in favour of some such provision as that as part of an extended system of secondary education in the country.

2551. Then might I ask if the schemes of the Charity Commissioners tend to secondary education only, and not to the safeguarding of the interests of the inhabitants who benefit under the endowments?—The whole object of the Endowed Schools Acts is the advancement of the education of boys and girls or either of them.

2552. In the form of secondary education?—"Secondary education" is a name for one of the most important branches of that work.

2553. Now, with reference to more aid in the office of the Commission; you stated that principally more clerks were wanted?—Yes. I intended to state, and I think that I stated, that for the purpose of enabling the Commissioners to deal with the three principal requirements of the public, namely, arrears being made up, statistics being furnished, and accounts got in regularly, examined, and gone into, what we require in my humble opinion chiefly is, first, the application to our Department of the 36th and 38th paragraphs of the Treasury Minute of the 10th of August 1889, in the Second Report of the Royal Commission on Civil Establishments, so that we may have an effective gradation and organisation of our clerkships of the second division; and then further, subject to that gradation and organisation, that

Mr. *Jesse Collings*—continued.

the increase of work in the office should be met by an increase in the number of clerks of that division.

2554. Might I ask you, taking what you describe as the main thing, the requirement in respect of accounts, if the duty of examining the accounts of charities were thrown on the county council of each county, would not that largely relieve the Commissioners of the overwork of which they now very rightly complain?—It would be a great relief to the Commissioners, but it would create something like a hundred charity commissions.

2555. Regardless of what it creates, if the council of each county had the duty of receiving the accounts of the various charities, it would largely relieve the office of the Charity Commissioners?—If they have the duties they must have the powers.

2556. Supposing they have the powers?—Supposing they had all the duties and powers; supposing that every county council and county borough council had all the duties and powers of the Charity Commissioners with regard to requiring the production and enforcing the results that follow from the examination of the accounts, it would be a great relief to the Charity Commissioners; but it would make so many charity commissions as there are county councils and county borough councils.

2557. I may take it that it would immensely reduce the work of the present Charity Commission?—It would make it impossible for them to carry on their work at all; absolutely impossible. That is the backbone of the whole administration of charities by the Charity Commissioners; the requirement of the production of accounts and the examination of them to see how the charities are administered; and if every local authority has those duties and those powers there is no necessity for a central authority.

2558. Except for new schemes?—But the making of a new scheme requires a knowledge of the administration of the charity before you come to make the scheme.

2559. With regard to the work of the office, would it not lessen the work of the office a great deal if some alteration were made by which they had less to do with the details of local foundations; after they had once settled a scheme and approved the governorship, would it not lessen the work of the Commission if they left a far larger amount of detail to the governors in the administration of their several foundations?—The Commissioners aim at that, as far as it is possible for them to do so; but it is found, as a matter of fact, that governing bodies require direction in the instrument which governs their foundation, that they require direction in all the leading points of their action.

2560. To illustrate my meaning, take, or instance, the Free Grammar School of Birmingham (of which I was a Governor for many years), do you think it necessary that in cases of small items of administration, such as building a gymnasium and so forth, that a great central body should be troubled with plans and details about an ordinary matter of administration of

that

Mr. *Jesse Collings*—continued.

that kind; does it not add to their work?—In order to carry out such an alteration the Right honourable Member must also alter the law of England as built up by the Court of Chancery for the last 300 years.

2561. But if it were altered it would lessen the pressure of work on the Commission if details of administration were thrown on the governing body?—It comes to this: that if a trustee is under no restraints or liabilities, but can deal with matters beyond the scope of his trust, including the sinking of the *corpus* of the charity property, it would, no doubt, be a great relief to all those who have to administer charitable trusts; but the charities themselves would pass out of existence.

2562. Now I want to ask you a question or two with regard to the Allotments Act of 1882, which is in your administration; the general question I want to ask is: Would it not lessen your work, and would it not probably be more effectively carried out (not from any shortcomings of the Commissioners, but from the impossibility almost of a central office dealing with so many thousands of parishes), if the administration of that Act was placed in the hands of the county councils?—There are no cases in arrear in our office; there is no case waiting to be dealt with under that Act.

2563. But is it not a matter of fact that the Act was mandatory in placing in the hands of the administrators of the Act the carrying it out in all parishes where such lands exist; and would not the county councils be better acquainted with the parishes where the land exists than a central body like the Charity Commissioners can be?—I do not think the local authorities would administer the Act more effectively than the Charity Commissioners.

2564. You are aware, from the evidence given in 1884, that there were great complaints on the part of the inhabitants as to the action of the Charity Commissioners with regard to the administration of those Acts?—I was not the secretary then.

2565. Would there be any difficulty in supplying Members of Parliament with a copy of all the schemes proposed by the Charity Commissioners as soon as they are formulated?—That question has been very carefully considered by the Commissioners, and on that subject they have been in communication with Members of the House who have been interested in the matter, through the Parliamentary Commissioner; and the arrangement which has now been come to, and, as far as I am capable of judging appears to give satisfaction is, that a list shall be provided by the secretary to the Parliamentary Commissioner once a fortnight of every scheme, giving its name and locality, which has been published during that fortnight, and shall be placed in the House so that any Member who sees that there has been a scheme published with regard to any matter in which he is interested, may at once obtain a copy, which he can do either by purchasing it at the office for a very small sum, or by seeing it gratuitously lying in the office.

Chairman.

2566. Do you, as secretary to the Commission, supply this list to the Parliamentary Commissioner by him to be placed somewhere in the House of Commons; or do you send it to the Librarian of the House of Commons?—I supply it to the Parliamentary Commissioner.

2567. Then we will have from the Parliamentary Commissioner himself what he does with it?—If you please.

Mr. *Jesse Collings.*

2568. You see no difficulty in furnishing a copy of the scheme itself to each Member of Parliament with the ordinary Parliamentary Papers?—Well, it would be very expensive, and not so effective for the purpose of honourable Members as the present plan.

2569. There would be no difficulty in doing it?—No, the schemes can be printed and sent. It would greatly increase the expense of the work of procedure in schemes, and I am satisfied would not be so effective as the present arrangement.

2570. I do not know whether the question has been asked, whether a Consolidation Act of all these numerous Acts affecting Charitable Trusts and Endowed Schools would not be a very beneficial thing?—Yes, I think it would be.

2571. I had not an opportunity of asking Sir Henry Longley, but I think on a previous occasion he very kindly promised to give the information which I now ask for through you, whether the Commissioners could give some approximate estimate of the amount of agricultural land which is represented in the 16,000,000*l.*, or thereabouts, of stock which they hold; in other words, how much of that 16,000,000*l.* comes from the sale of agricultural lands. I think Sir Henry on a former occasion thought that he could approximately give that. Of course I do ask for it now, but perhaps the Commissioners would give the information?—We can look into it and give the Committee some information.

Mr. *Oldroyd.*

2572. In the elaborate account you gave us of the organisation of your office, you referred to the W department?—Yes.

2573. Which is a sort of department for bringing within the purview of the Commission all new charities and unrecorded charities?—Quite so.

2574. The regulation for the organisation of that department has been very effective?—Yes.

2575. You consider it practically efficient?—I think so. We may require perhaps a slight augmentation of staff, but subject to that, I think I may say yes.

2576. In the new charities that must necessarily be constantly brought before the Commission, do you find many of the peculiar and whimsical character of the one referred to at our last sitting, for the development of vagrancy, as you put it; do you find that class of peculiar charities very numerous?—No.

2577. In case charities of that kind are instituted have you power at the Charity Commission to remedy their obvious defects?—So long as the object can duly be carried into effect, and

is

Mr. *Oldroyd*—continued.

is a legal object, the Commissioners have no general absolute power to vary the trust; but remedies can be found when it is desired in the locality that they shall be found for evils created by any particular trust.

2578. As a matter of fact, within your knowledge as secretary of the Commission, are remedies applied to these cases?—Yes. I think such cases as those which the honourable Member has mentioned, as I have said, are rare; but when they do occur, I think that on the whole the Commissioners are empowered to remedy them.

2579. In the accumulation of the new charities which you have stated to be very numerous, is it not a fact that, in the same district, a large number of charities are continually being added to the list; in the same area?—Yes.

2580. Have you powers for the amalgamation of such charities?—Yes.

2581. Under what Acts do you do that?—Under the Charitable Trusts Acts on application, if the charities are of 50*l.* a year and upwards, of the trustees, and, if under 50*l.*, on other applications, the Commissioners have power to make schemes for such amalgamation.

2582. And do you think that the powers that you have for such purposes are sufficient?—I have no suggestion to make on that point beyond the repeal of the 50*l.* limit which I have already referred to.

2583. In the practical arrangement of the charities now in question, you do not find that the old precedents that have accumulated interfere with what one might call the effective arrangement of the charities in a specified district?—No, I think that all legal precedents that are being created, as far as my observation has gone of late years, tend towards the strengthening and development of the remedial administration of charities.

2584. But have not those precedents decreased what I might call the flexibility of your powers?—No, I should say they have had the contrary effect.

2585. Then those precedents are not so steriotyped as to prevent from time to time changes in the arrangements?—No, on the contrary, recent judgments, and particularly one great judgment which I have in my mind, of the court, have finally established the power of the Charity Commissioners to vary trusts so as to meet the varying circumstances of the time and occasion.

2586. Then is it your opinion that, under the Charitable Trusts Acts, you have practically, subject to the jurisdiction of the court, as ample powers, allowing for the 50*l.* limit, as on the Endowed Schools side?—No.

2587. Have you all the power that you think to be requisite for the fair and proper administration according to modern ideas?—I do not think that the Commissioners would desire to ask for more, having regard particularly to the fact that they represent the Court of Chancery.

2588. There is only one other point on which I wish to put one or two questions. You said that it had been the policy of the Board to increase, wherever possible, the number of representative trustees in the several charities?—Yes.

2589. And you gave it as your opinion that that policy had been a useful and beneficial one?—Yes.

Mr. *Oldroyd*—continued.

2590. Can you give us in a few words how you have discovered that policy to be beneficial?—I wish to be extremely careful and guarded in going into questions of policy which the honourable Member quite understands are for the Commissioners.

2591. I am asking now as to the practical and visible results of the policy, not as to the policy itself?—As far as my own experience goes I am now, and have been for years, of opinion that the having representative trustees or governors on the administration of charities is an extremely beneficial provision, particularly having regard to the fact that it removes a sense of grievance from persons interested in the administration of the charities by giving them a participation in their administration; and that it also removes, by communication with them through their representatives, a large number of misconceptions and misapprehensions which are otherwise apt to arise.

2592. And does it to you knowledge tend to reduce denominational jealousies in the locality?—I have no experience on that point.

2593. But you think that the participation of the community generally in the administration of trusts gives assurance to individuals who are from their status participators of the trust confidence that the administration will be equitably and fairly conducted, more confidence perhaps than would be accorded to a central body like the Commissioners?—I think that the representation of local bodies and persons interested in the administration of a charity on the governing body decidedly tends to confidence in the administration of charity in that locality.

2594. Then as a matter of fact from your observation as secretary to the Commission have complaints from individual districts been reduced after the development of the policy of increasing the number of representative trustees?—I cannot say that my observation is minute or has been exact enough to enable me to confidently answer in the affirmative; but I should be greatly surprised to find that that has not been the result.

2595. Now having regard to the Local Government Act of 1894, do you not think that that Act makes it still more necessary than it was before that local representation should be given in future schemes?—That seems to me, with submission to the Chairman, quite a question of future policy.

Chairman.

2596. I will ask you this question, do you think that the answer to that question comes within the scope of your duties as secretary to the Commission?—Certainly not.

Mr. *Oldroyd.*

2597. You have heard the evidence which has been given with regard to political pressure; I think some was given by yourself on that point; do you not think that the increase of representative trustees on the governing bodies tends to diminish the danger of political pressure?—Political pressure on whom?

Mr. *Oldroyd*—continued.

2598. On the ideal Minister of State who is to be appointed?—I have not sufficiently formulated that idea in my mind to be able to answer; and further it appears to me to be a matter upon which I have no authority to speak, and which is outside the scope of my own experience and observation.

2599. With regard to this same question of representative trustees, do you not think that if that principle were further developed and extended, the concentration of charities in any locality would tend to make the administration more effective and more economical as well as inspire greater confidence?—I think that the consolidation under one administration of different charities in the same locality has an undoubted tendency to improve the administration both in respect of economy and of efficiency.

2600. And is not the consolidation in a given district greatly facilitated by the increase of representative trustees?—No, I cannot say that I can draw any conclusion from the appointment of representative trustees as to whether application is more or less likely to be made to the Commissioners for consolidating schemes.

Mr. *Strachey.*

2601. Would it, in your opinion, greatly increase the expenses of the Charity Commission if notice of every scheme affecting a local authority were sent to that local authority as you do in the case of municipalities?—By "local authority" does the honourable Member mean county councils and county borough councils?

2602. No, I mean going down as low as a parish council?—That will greatly increase the expense; but I do not wish to be understood to imply by that that something of the kind may not eventually be favourably considered by the Commissioners.

2603. I did not ask you on that point, because I thought it would be a question of policy?—I only wish to bar myself from being misunderstood.

2604. Quite so?—I purposely did not ask you that question?—Quite so.

2605. I think before the Local Government Act of 1894 there was some difficulty, was there not, as regards the definition of a parochial charity?—There was before the Act, and there is now, a great difficulty, in defining what is a parochial charity for the purpose of the 44th Section of the Act of 1855. It is for the purpose of that Act that the Commissioners have been from time to time, and still are, constantly required to define what is a parochial charity. Perhaps that is the particular difficulty that the honourable Member refers to.

2606. Quite so; but what I am leading up to is this: whether Section 75 of the Local Government Act, 1894, which defines a parochial charity, is so far satisfactory?—The Commissioners have not yet had opportunity or occasion to consider that question.

2607. Then, in your evidence the other day, you were asked, would it be desirable to levy a fee for the distribution of dividends on capital standing in the name of the official trustees; it is at Questions 2138 and 2139. I think you said then that you saw no objection to levying a fee?—I saw one objection.

Mr. *Strachey*—continued.

Chairman.

2608. You said that this rested with the Treasury?—I did.

Mr. *Strachey.*

2609. Then I may put it in this way: On the other hand there is the objection that trustees might not be willing to come in and hand over their capital; but what I am coming to, is this: Was there not rather an understanding when trustees have been induced to hand over capital sums to the official trustees that there would be no expense in the collection of dividends and paying them over to them?—That is at present the arrangement, that funds standing in the name of the official trustees have the dividends on them paid free of expense so far as the Commission is concerned to the trustees; and also in certain cases free from income tax.

2610. My point is: was not that inducement rather held out to trustees when they transferred the capital?—I have no doubt that those advantages of the transfer have often been mentioned to the trustees, when correspondence was passing with them as to their making that transfer.

2611. And, therefore, it would be hardly fair to put a duty, I may say, on the dividends which are to be collected, which they never contemplated when they handed the endowment over?—There is a statutory provision on this subject as to fees for the business done by the Charity Commissioners, to which I think it necessary to refer before I answer the honourable Member's question as to imposing fees upon these particular funds. By the Charitable Trusts Act, 1869, Section 16, it is provided that: "The Lords Commissioners of Her Majesty's Treasury may from time to time prescribe a scale of fees to be charged for any business done by the Board under this or any other Act, and may direct whether the same shall be imposed by stamps or otherwise, and by whom, and in what manner, the same shall be collected," and so forth. The scale of fees to be laid before Parliament, and to have effect, if not disapproved under certain provisions. All trustees of charitable trust funds are affected, of course, with notice of that statutory provision; and so far as that would authorise fees being imposed for that part of the business of the Charity Commission, I do not think that any complaint of unfairness could be raised in the matter; but it would be a matter, the honourable Member will perceive, which would come under the direct notice of Parliament; and, therefore, any unfairness would be considered in the highest and best quarter for that purpose.

2512. Then at present without the matter coming before Parliament there would be no power to levy any fee for the collection of dividends?—No.

2513. I think the honourable Member on my right referred to the question of the list of schemes being placed in the Library of the House, and suggested as an alternative that they might be circulated to every honourable Member.

Now

Mr. *Strachey*—continued.

Now I would ask you whether you think it possible that a list of the schemes should be circulated every fortnight with the Votes to honourable Members?—That, I think, is a matter for the House.

2614. As far as your department is concerned there would be no difficulty in it?—We give the list to the House, and what the House in its wisdom thinks fit to do with it of course does not concern us.

Mr. *Howell.*

2615. I want to ask you one or two questions on the 41st Report. On page 8, under Section 2, there is a table in which you have in the last column the number 449 as the number of the orders made by the Charity Commissioners appointing trustees, establishing schemes, or vesting real estate. That is made up of the two first items in the table, "Description of Orders," on page 7, is it not?—On page 8 there is a table that has three main columns, and the second column has two sub-divisions.

2616. I am going to the third one, the last of the columns; at the bottom you will find under the year 1893, the number "449"?—That is the number of orders made by the Charity Commissioners appointing trustees and so forth.

2617. That is composed of the two first items on page 7 under the same year, "307" and "142"?—Yes, that is so.

2618. I wanted to get that out. Now in the next place you have stated in your evidence this year what has been more than once referred to, and it is also given on page 14 in Section 14 of your 41st Report, that there are about 60,000 charities?—I believe so; subject to the jurisdiction of the Charity Commissioners.

2619. On page 10, under the head of Section 5, you state the return of accounts of charities; you give them for a number of years; the last being 31,325?—Yes.

2620. That is the return of accounts; and then on page 11, under Section 6, you give the total number of 17,775 charities. With some additional charities which have not been ascertained; and can you tell us just in a few words how it is, that there is such a great discrepancy between the number of the returns of accounts of charities, and the total number of charities on the register, and the 60,000 mentioned on page 14 at Section 14?—That number in paragraph 6 on page 11, is the number of charities recorded in this particular register of what we may call new or unrecorded charities. Besides that, there are all the charities recorded in the old Reports of Lord Brougham's Commission, which are much more numerous.

2621. That is the explanation?—That is the explanation.

2622. Then coming to the question of copies of schemes it was suggested just now that copies might be placed where Members could have them by payment; may I ask whether you can see from the point of view of the Charity Commissioners any objection to a dozen copies of such scheme being placed in the Vote Office for Members specially interested, in the same way as the Local Government Board now place there some dozen copies or so on reports of Private Bills?

Mr. *Howell*—continued.

—That, of course, can be done: but the objection to such a course is entirely from the point of view of the convenience of honourable Members, and it arises in this way: those schemes, if deposited there at the moment of publication, after a few days, weeks, or months would entirely mislead honourable Members by reason of the variations that take place in them. It is, consequently, tolerably settled I think now, with the concurrence of those who have moved in this matter in the House, that the most convenient thing is for honourable Members to have a list, and be able to get a scheme at any moment at the stage in which it happens to be. Otherwise an honourable Member might go and correspond with his constituents or others on a totally wrong basis as to what is provided in the scheme.

Chairman.

2623. Have you any objection on the part of the Charity Commission to the course suggested?—Yes, I have.

2624. Why?—The objection is this on the part of the Charity Commission: that, the honourable Member having been so misled a great increase of unnecessary irritating and troublesome correspondence and references to our Board would take place.

Mr. *Howell.*

2625. Now, I leave that; mention was made just now with regard to the necessity, I think you said, for the Acts relating to charities being consolidated; may I ask whether the Charity Commissioners have ever made a suggestion of legislation to that effect or prepared any such thing?—I do not think that I intended to point out that it was a necessity. I think I was asked whether it would be desirable; and I said that, to the best of my judgment, it would; but it would be a very great task.

2626. The Commission have never attempted it?—They have made no suggestion for such legislation.

2627. I wish to ask you a question with reference to the Parochial Charities of London Act; you report upon them to some extent in your 41st Report, commencing at page 19; with the exception of the references made in your own Reports, is there any information given to Parliament with regard to what is being done with those parochial charities?—No; the Reports to the Queen are the official modes in which the Commissioners inform Parliament of what they are doing.

2628. And beyond what you give in your Report to the Queen there are no reports, annual or otherwise, published by the Commissioners connected with that?—No.

2629. And they are not obtainable by Parliament?—Parliament can obtain any returns or reports which, in its wisdom, it thinks fit to require.

2630. By moving for them, but there are none published?—No such returns have been hitherto required.

2631. None have been since the establishment of that Commission?—Since the passing of the City of London Parochial Charities Act, and the completion of the work under that Act, no return has

Mr. *Howell*—continued.

has been required by Parliament giving an exhaustive account of the work done. So far as an account has been given it has been, I think, very minute and complete; it has been given in the Annual Reports to the Queen by the Commissioners.

2632. There is one other question which rather refers to some questions put by the Right honourable Member for the Bordesley Division: have the Charity Commissioners power to entirely divert any charity to purposes other than those specified in the will or deed of the founder?—In the exercise of their ordinary jurisdiction do you mean?

2633. Yes?—No.

Mr. *Crawford.*

2634. I should like to put a few questions to you with regard to the judicial functions of the Charity Commissioners, and practically in continuation and supplement of your answers to 2146 to 2159; and I would like to bring out in rather more detail what the judicial functions are, and also to put some further questions upon their bearing on their proposal to put a Minister of State at the head of all charitable trusts. Now I would like briefly to go over the sections that you have referred to by number, as containing the judicial functions. The first is Section 22 of the Charitable Trusts Act, 1853; that gives the Commissioners power to authorise trustees to remove the schoolmaster or schoolmistress, or other officer of a charity?—Yes.

2635. Do you regard that, as strictly speaking, a judicial function; might not that be regarded as an administrative function, the removal of a person holding a certain position or public office?—I think there is a large element of administration in that.

2636. Would you see any objection to entrusting the responsibility for that power to a Minister of State?—In the sense, the honourable Member means, that the Minister of State should have authority over the Charity Commission?

2637. Yes?—No, I am not greatly pressed by the sense of objection to that.

2638. Is there not a section in one of the Acts which makes all such officers as master and mistress removable?—Yes. I may refer to Section 22 of the Charitable Trusts Act, 1853, and Section 14 of the Act of 1860; and also to the provisions of the Endowed Schools Act, 1868, and of Section 22 of the Endowed Schools Act, 1869.

2639. Is it not the case that the question whether it is desirable or not to remove a removable officer is entirely a question of discretion, which need not be restricted to a court of law or to any board performing the functions of a court of law?—Yes; I think that that particular power of the Charity Commissioners might be regarded and treated as an administrative action. I mean I do not think that that is one of their functions or powers which is of that judicial kind that the connection of it with a Minister of State would involve an unconstitutional position.

2640. And would you go as far as to say that this particular power is not one of those that raises the difficulty which you have stated to the Committee that you felt?—I do not feel the difficulty in regard to that particular power so much as in regard to some other powers.

Mr. *Crawford*—continued.

2641. The next section, the 23rd, is that the Board may sanction compromise of claims on behalf of a charity; would you say the same about that; is not that substantially an administrative power?—That appears to me to be less an administrative power than the former one; but still, of course, like all the powers of the Charity Commissioners, which do not extend to dealing with third parties or private property, and only include dealing with public trusts and endowments, that has a large element of administration about it.

2642. Yes; but when the question comes before the Board whether it is a prudent or desirable thing in the interests of the trustees to compromise a claim made upon them, does it not appear to you that that is rather a question of prudent administration than a question of doing justice between the two parties?—I think it is largely a question of prudent administration.

2643. Then, passing to the Act of 1855, Section 10, that gives the Board power to apportion parochial charities after the division of parishes?—Yes.

2644. Is not that substantially a question of administration?—Yes, I think it is largely and substantially, as the honourable Member says, a question of administration.

2645. Then, I pass to what I suppose perhaps are the most important judicial functions, and that is Clauses 2 to 10 of the Charitable Trusts Act, 1860. Section 2 is the only one, I think, that I need refer to very particularly; is that the section which chiefly confers on the Board the Chancery jurisdiction which you have described, or the Chief Commissioner has described?—It is one of the principal sections.

Chairman.

2646. The heading of that is "Certain administrative powers to be exercisable by the Charity Commissioners"?—The side-note; that is so.

Mr. *Crawford.*

2647. That gives some indication of what the Legislature thought of the nature of those powers. Then the Board is given a power of making Orders such as may now be made by any judge of the Court of Chancery sitting at chambers, or by any county court, for the appointment or removal of trustees of any charity, or for the removal of any schoolmaster or schoolmistress, or other officer thereof" (that point we have already dealt with); "or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate belonging thereto, or entitling the official trustees of charitable funds, or any other trustees, to call for a transfer of and to transfer any stock belonging to such estate, or for the establishment of any scheme for the administration of any such charity"?—Yes; that is to say, appointment and removal of trustees, vesting, and making a scheme.

2648. The appointment and removal of trustees, and the making a scheme explain themselves; could you explain rather more fully what

Mr. *Crawford*—continued.

what the vesting powers are; give some illustrations of what that would be?—The Board can by an order made under that section vest the legal estate in the case of real estate, either in the administering trustees or other trustees; and similarly in regard to personalty, it can make an order for the transfer or payment of funds with a view to vesting the personal estate in the official trustees of charitable funds, or other trustees; and does frequently make such orders.

2649. Am I right in understanding that such orders relating to vesting, deal substantially with the most convenient arrangement for the possession of the property, and do not deal with the beneficial rights of the parties?—Quite right.

2650. So far as that is concerned, would you be inclined to agree that that partakes more of the character of a function of an administrative nature than of a judicial?—That again, I think, may be regarded as largely an administrative action; but, of course, the honourable Member will be well aware that the Board under the provisions of that section can only make such an order as might then be made by certain particular classes of judges; and that provision imposes upon the Commissioners the consideration at once of that part of Chancery practice which is concerned with knowing what kind of orders might and would be made by the court at that time, and under the special circumstances of each case. That is a matter which I have not so much proposed to call in my evidence a judicial matter, but a matter of Chancery practice; and that appears to me to have an element in it which it would be difficult for a Minister of State to intermeddle with.

2651. I suppose that would be a matter at all events which would require to be dealt with as it is now by men of legal training and experience, whether they were under a Minister of State, or whether they were not?—Yes, I have said, and I am glad to repeat it, that I think a Minister who has the Charity Commission as forming part of his department, must have at his side persons of high legal experience.

Chairman.

2652. And you gave us that as an illustration of the work for the transaction of which he would mainly depend upon their advice?—Yes. I think all orders made under the provisions of this Act which involve a knowledge of the mode in which the Court would act, and the way in which the Court would regard the particular facts of the case, would require the assistance of legal experts.

Mr. *Crawford.*

2653. Is not that one of the powers as to which as appeal is given under Section A.?—Yes.

2654. And there is also a power of appeal given in the other two points in this section, namely, the appointment of trustees, and the making of schemes?—Yes.

2655. Supposing the appeal retained in each of these particulars. do you think that the appointment of a Minister of State would be incompatible with the transaction of business in that way?—No, I do not think it would be incompatible.

2656. May we not draw an illustration from the Endowed Schools Acts in that case. The authority of the vice-president over the making of schemes is complete, and the control of Parliament is complete; is not that so?—No scheme can be appealed against until it has been approved by the Committee of Council on Education.

2657. And after it has been approved by the Education Department, that I think is the next step?—The Committee of Council on Education. It is the same thing.

2658. I rather think both words are used?—I think so.

2659. I am inclined to use the words "Education Department," because there is an appeal to another Committee of the Privy Council?—The Judicial Committee; in certain cases that is so.

2660. Accordingly is it not the case under the Endowed Schools Acts that there is complete control by a Minister and by Parliament, and yet there is an appeal against their decision?—I should prefer not to give an opinion on the question whether there is complete control by the Minister, and I do not know that for the honourable Member's purpose it is necessary that I should do more than say what I have already said, that the scheme must be approved by him. I should prefer that how far his approval implies complete control should be stated by somebody on behalf of the Education Department; but there is no doubt that the approval of a Minister is required for those schemes, and that an appeal to a Court of Law can and does take place after such approval.

2661. Taking the schemes under the Charitable Trusts Acts which are one of the most important portions of this section, do you see any insuperable difficulty in a similar system (in the widest sense I mean; I do not mean exactly the same system, but a similar principle) being applied to them?—I do not see any insuperable difficulty, but I think it a grave difficulty to the extent which I have already pointed out in my evidence.

Chairman.

2662. But I understand you distinctly to say that on certain conditions it is a soluble difficulty?—I think so. I say so with that hesitation which I think is proper to the question, being one of high State policy; but subject to that, in my humble opinion, the difficulty is soluble.

Mr. *Crawford.*

2663. To sum up what I am trying to bring out on this which is the most important part of the judicial powers probably, am I right in saying that the proper exercise of these judicial powers is secured in this Act by an appeal to the Court of Chancery?—Yes.

2664. And under the Endowed Schools Act the proper exercise of similar powers of making schemes is secured by an appeal to the Judicial Committee of the Privy Council?—On points of law.

2665. I meant on points of law?—That is so.

Mr. *Crawford*—continued.

2666. And the question then that I would sum up my questions by is this: do you see any insuperable inconsistency in the exercise of these *quasi*-judicial powers so secured as they are now by an appeal to the Court of Chancery side by side with a department having at its head a great Minister of State?—I see no insuperable difficulty.

2667. Then I would ask a similar question with reference to the point of political pressure. It has been suggested to the Committee that, for example, in the formation of schemes, a Minister of State, if he were responsible for them, would be liable to political pressure. Now would that observation be equally applicable or not to schemes under the Endowed Schools Acts?—Yes.

2668. And, so far as you are aware, has any serious inconvenience arisen from that?—I have no knowledge on that subject. The carriage of a scheme under the Endowed Schools Acts is in the hands of the Education Department when once it has been submitted to that Department.

2669. Then in matters of schemes, a scheme may be a matter of discretion in the strictest sense of the word, may it not?—Yes.

2670. And on the other hand it may partially be an exercise of power more resembling judicial powers?—Yes.

2671. Might it not be possible to restrict the right of appeal somewhat more closely than it is now restricted. If an alteration in the system were made, and a Minister were appointed, might not the right of appeal to the Court of Chancery be somewhat restricted, or have you considered that subject?—I have not considered that.

2672. I do not think I need go over the other sections which you have given us, because the same remarks would arise upon them; but I will ask you this, whether you could classify or whether you would assent to any classification of the judicial powers. In the first place would you assent to this, that one class of those powers consists in the interpretation of Acts and decisions under Acts of Parliament similar to what has to be done by most other high departments of State?—That is one class only; yes I should assent to that as one class.

2673. So far as your knowledge of other departments goes, do you imagine that there is a very large class of business in such Departments as the Home Office and the Local Government Board; indeed, must there not be a very large class of business, in which they have to interpret Acts of Parliament and come to decisions under them?—I imagine that that must be so, but I have no actual personal knowledge of the working of the Home Office or the Local Government Board. The two offices other than my own of which I have the most knowledge are the Education Department and the Science and Art Department; and it is within my personal knowledge that such interpretations and applications of Acts of Parliament, as those of which the honourable Member is speaking, do, so far as the administration of the work of those Departments is concerned, form a large and important part of the business of those Departments.

2674. Then would a second class of judicial business be business as to which there is an appeal from the Board, and in which, consequently, the Board acts as a court of first instance?—Yes, that is an important part of the judicial business.

2675. As to the remainder of the business, could you describe it under one head; for instance, would such a description as this exhaust the remainder of the judicial business; giving direction to trustees for the management of charities and making orders as to that?—Yes, I follow the honourable Member, I think. The first class of judicial business that the honourable Member puts is the ordinary interpretation and application of Acts of Parliament, which belongs to a considerable extent to every Government Department. The second is the doing of acts and the giving of decisions in respect of which the Board act as a court of first instance by reason of a direct statutory provision for an appeal against those acts or decisions.

2676. Yes?—And the third is doing other acts, giving decisions and directions, as to which there is not a direct statutory appeal given as regards those particular acts and directions.

2677. Could you give an illustration of that last?—The difficulty of giving instances of those is the difficulty of knowing how far an order of the Board may eventually be required to enforce the course taken by the Commissioners. If an order is eventually required for one of those three classes of cases which are mentioned in the 2nd Section of the Charitable Trust Act of 1860, to which the honourable Member has referred, then there is an appeal provided by Statute.

2678. So that would come under the second class?—And that is my difficulty; but the cases in which the Commissioners are always doing acts and giving directions which, no doubt, could not eventually be enforced except by an Order; but in which nobody ever dreams of coming to an Order, and in which the question of an Order being required does not arise, and which, nevertheless, are matters which must be carried out always with an eye to the fact that there is the Court behind; that is the class of cases which I should mention, if that is the division which the honourable Member is thinking of.

2679. Yes, that quite corresponds?—But the honourable Member will remember that the Court is always above and behind the Commissioners in all their acts.

2680. Then in the exercise of this jurisdiction under the 5th Section of the Act of 1860, which is one of those you mentioned, the Board is not to exercise jurisdiction over cases of a contentious character?—Yes.

2681. Or where for any other reason the case can be more suitably decided on by the Court?—Certainly.

2682. And although in one way it has been put that the Board act partially as a court of law you have the assistance of counsel and solicitors, have you not?—Yes.

2683. And if the Board were viewed as partially a court of law is it not also an important consideration that your deliberations at the Board are in private; is it not an open court?—No, it is not an open court.

Mr. *Crawford*—continued.

2684. If it be regarded as a court, is it not the only court in the country that is not open?—I am not sufficiently informed upon that to answer the honourable Member with any advantage; but there is no doubt that so far as the Board exercises judicial functions as a court its deliberations and proceedings are not public.

Mr. *Jesse Collings.*

2685. I am going to ask now for the information of the Committee whether you could give approximately the aggregate income of the charities, the non-educational and others, which under Section 30 of the Endowed Schools Act, 1869, have been diverted, or applied, we will say, to the purpose of secondary or higher education?

Mr. *Jesse Collings*—continued.

—We have put in a return of all the dealings of the Commissioners with endowments under Section 30.

2686. At the end of the Report, do you mean? —We have supplied a return I mean, made up to date.

2687. Of the aggregate income or value?—Yes, it gives the endowment.

2688. At the end of the Report of 1884, do you mean?—It was handed in to this Committee made up to date.

2689. And that includes the income I understand you to say?—It gives where corpus is concerned the capital, and where income is concerned the income.

Wednesday, 6th June 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. John Edward Ellis.
Mr. Freeman-Mitford.
Mr. Howell.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS IN THE CHAIR.

Mr. DANIEL ROBERT FEARON, C.B., re-called; and further Examined.

Chairman.

2690. I WISH, if you please, to ask you two or three final questions. And first, with regard to a Return to the Order of the House of Commons on the 8th of June, 1893, and supplemented by Mr. Richmond since. Can you give us the total figures of the respective columns of that Return as supplemented up to the end of 1893?—Yes. I hand it in. (*The same was handed in.*)

2691. To how many schemes does the Return and Supplemental Return relate? — Taken together you mean? 186.

2692. Now, passing to the columns relating to the constitution of the governing bodies, will you give us the letters and the figures?—Under the letter (*a*), *ex-officio* members of the governing bodies, the total for the two Returns is 85.

2693. We will consider it one Return?—The total is 85. Under the letter (*b*), co-optative governors, the total is 397. Under the letter (*c*), representative governors, the total is 919. You will recollect, perhaps, that in my examination of Mr. Richmond, I asked him some questions as to the precise meaning attached to the word "representative," and suggested that the term at the head of the column (*c*) did not carry quite the meaning usually attached to that word. I asked Mr. Richmond if the figures under that word could be analysed; has that been done?—That is in this Return.

2694-5. Then perhaps you will give me the two figures relating to the column (*c*) analysed?—Subject to correction, after a more careful consideration of the analysis than I have just now been able to give, but with substantial accuracy,

Chairman—continued.

I think I may say that the figures are these: 189 nominated and 730 strictly representative.

2696. That has reference to the undertaking given by Mr. Richmond in answer to Question 874?—Mr. Richmond, as I understand, undertook to have nominations by individuals taken out in a Return; but this Return, as will be seen, goes further, and gives among the nominated members persons appointed by various bodies as well as by individuals.

2697. Now will you kindly, if you can, bring into a focus in the answer to my question the principal suggestions that you have made in the course of your evidence?—The principal suggestions that I have desired to submit to the Committee in the course of my evidence are four in number. First, that the first provision of the 4th Section of the Charitable Trusts Act, 1860, be repealed, so as to remove the 50*l.* limit; Secondly, that the 44th Section of the Charitable Trusts Act, 1855, be amended so as to require trustees of all charities to deposit the yearly accounts of the charities for inspection; Thirdly, that the provisions of paragraphs 36 and 38 of the Treasury Minute of the 10th of August 1889, on the second Report of the Royal Commission on Civil Establishments shall be applied to the office of the Charity Commission so as to secure a more effective gradation and organisation of the clerkships of the second division; and Fourthly, that, subject to that gradation and organisation, increase of work in the office should be met by increase in the number of clerks of the second division.

2698. Is that all you desire to say?—Yes.

The Hon. Sir STAFFORD NORTHCOTE, Bart. (a Member of the Committee); Examined.

Chairman.

2699. PERHAPS you will kindly give us the date when you entered the House of Commons?—March 1880.

2700. And you were appointed to the position of Parliamentary Charity Commissioner, when?—Some weeks after the resignation of Mr. Lowther; I think it was about the end of October 1891.

2701. With what view in your mind did you accept the position?—I was anxious to have an opportunity of learning generally about the work of the Commission, and I may say that I had not contemplated holding the position very long, but I knew that a General Election could not be very long deferred, and having some time on my hands I thought it would be of interest, and possibly of advantage to myself, to acquire some knowledge of the work of the Commission.

2702. Do you desire to add much to the evidence which Mr. Lowther has given us with respect to the position and duties of the Parliamentary Charity Commissioner?—No; I think probably I should save the time of the Committee by saying that I concur generally in Mr. Lowther's evidence. Perhaps I may first mention the distinction between his position and mine. He had a much longer experience at the Charity Commission; I only held the post from the end of October, I think, in 1891 until the General Election in the following summer. I had also not the advantage which Mr. Lowther had of having had any legal training. I had one slight advantage over him, that during the course of my tenure of office a room was found for the Parliamentary Commissioner. And I may also say that Mr. Lowther went through much stormier times, if I may so express it, as Parliamentary Charity Commissioner than I did.

2703. After all, was there any particular reason for the "stormier times"?—Mr. Lowther was Charity Commissioner previous to the passage of the Welsh Intermediate Education Act; and he was also Charity Commissioner, I think, during the time that the Christ's Hospital Scheme was going through; and I rather think he was Charity Commissioner when the City Parochial Charities Act was passed. I attribute the comparative quietude of my time to the fact that the Welsh Members, if I may say so, were digesting the Intermediate Education Act; that the Christ's Hospital row was over; and last, but not least, that with a General Election in prospect, I think some honourable Members had other things to think of than the affairs of the Charity Commission. Perhaps I may be allowed to say that I see by reference to "Hansard," that during my tenure of office I had only to answer six questions in the House of Commons, and there was no debate, as a matter of fact, upon the affairs of the Commission, except, I believe, a few remarks on one occasion from the honourable Member for Peterborough, which do not seem to have been replied to.

2704. Do you desire to add anything to what Mr. Lowther told us with respect to Parliamentary questions or any other matters?—I think I have a rather more definite opinion than Mr Lowther as to the propriety of the Parliamentary Commissioner changing with the Government of the day. He seemed to think that it was immaterial whether the Parliamentary Commissioner should or should not change. I am decidedly of opinion that it would be well that he should change.

Chairman—continued.

2705. Perhaps you will mention the grounds for that opinion?—My grounds are these: I can myself remember on one occasion a division taking place at a Board meeting of the Charity Commissioners in which the numbers stood 4 to 3; I do not recollect what the precise question was, but I may point out that there in effect it was the vote of the Parliamentary Commissioner which decided the matter. Now I can conceive a state of things as possible in which we will say that a Conservative Government, on the one hand, might not feel entirely satisfied with recommendations of the Charity Commission if they thought that those recommendations were based upon a vote carried by a gentleman who might have held the post of Parliamentary Commissioner under a Liberal Administration; and *vice versâ*. And, in the second place, I think that if you had a Parliamentary Commissioner there *en permanence*, not changing with the Government of the day, he would necessarily after some years at the Board acquire an ever-increasing weight and importance there; and if he held very strong views either, say, very strong Conservative or very strong Liberal views, I think there might be at all events a suspicion that he would exert so much influence at the Commission as might render the Government of the day to which he was opposed a little suspicious in accepting their recommendations. Those are my reasons for not quite agreeing with Mr. Lowther in his view.

2706. Then in the case of this division of opinion and vote to which you have alluded at the Board of the Charity Commission, do you suggest that it was the Parliamentary position of the Parliamentary Charity Commissioner which carried the matter, or merely that he gave one vote among others which turned the scale?—That is all I mean; and I do not suggest that this particular vote was in any way connected with party politics or anything of the kind. I do not remember what it was.

2707. Mr. Lowther has given us clearly as his opinion that the fact of having a seat in the House of Commons gives to the Parliamentary Commissioner very considerable additional weight; do you concur in that?—Yes, entirely. In fact I do not see what use there would be for an unpaid Commissioner, unless he had a seat in the House of Commons. His main duty, as I think Mr. Lowther very clearly put it, is to act as a sort of coupling chain between the Charity Commission and Members of the House.

2708. One more question on that: Do you concur in this, that having a seat in the House of

Chairman—continued.

Commons gives to the person who has that seat, sitting at the Board of the Charity Commission very considerable influence from that fact?—I should say so, because I take it his duty is to acquaint his fellow-Commissioners with what he gathers to be the prevalent feeling in the House of Commons.

2709. Why is it desirable that his fellow-Commissioners should know the feeling in the House of Commons?—Well, I should almost think it stands to reason that they would be in a very unfortunate position if they were to set themselves against the will of the House of Commons.

2710. Then you concur in the view that their action should be largely governed by what is the will of the House of Commons?—Certainly.

2711. Is there any other point with respect to the position and status of the Parliamentary Commissioner that you desire to refer to?—No, I think Mr. Lowther has described it so clearly that I need only say that I concur with him.

2712. Passing now to the matter of recommendations, have you anything to say to us on that?—With regard to the question of accounts and of audit, I think it must be quite clear, at all events it is quite clear to my mind, that there is a great weakness in the way in which accounts are sent in, not due to any fault on the part of the Charity Commission, but to their insufficiency of staff; and my own belief is that there is a great deal of dissatisfaction existing in the country with reference to the Charity Commission, from the belief that charity money is improperly spent. I do not myself concur at all in that view, nor do I think it is at all a well-grounded fear; but so long as the Commission are only able to examine a very small proportion of the number of accounts sent in to them, I think that that fear will continue to exist; and I think it is one which ought to be dissipated.

2713. How does dissatisfaction with respect to spending charity money attach to the Commissioners?—I think there is an idea that the Commissioners do not look into the matter enough; I think that the public at large do not understand how totally inadequate their resources are to enable them to make a thorough investigation of accounts; and that some of the public, the more ignorant, think that it is carelessness or slackness on the part of the Commissioners.

2714. Then do you think that the public, to use your own expression, think that the Charity Commission in London ought to protect the public from the laches of the local trustees?—I think there is an idea to that effect.

2715. That they can do it and ought to it?—Yes; and they can do it if they have any reason to suspect that accounts are improperly kept; they have the power now to require those accounts.

2716. And you think that the dissatisfaction that arises would be removed if they knew how limited the ability of the Charity Commissioners is in that respect?—I do not myself think their dissatisfaction would be removed, but I think there would be a strong opinion that the Charity Commission should be placed in a position in which they would be able to deal more efficiently with this system of accounts.

Chairman—continued.

2717. Then have you any recommendation to make to us with respect to removing the dissatisfaction?—The evidence which has been given before us shows that the Commissioners regard this as difficult. I entirely agree with their claim that extra clerical assistance should be furnished them; and the idea which has passed through my mind with regard to the question of audit of accounts is that I should like to place the Commission somewhat in such a position as the following: In cases of charities of a certain amount the accounts with professional auditors' certificates should be published in the local press; in smaller charities (there are a great number where the charities are only a few shillings in extent) I would have a manuscript copy of the accounts with the auditors' certificates attached to the church door or to some other public place in the locality; and I should also like to authorise the Commission and put them in a position to allow them, but not to compel them, either to employ a local accountant or to get one of their Assistant Commissioners who might happen to be in the neighbourhood from time to time, to look at the accounts of such charities as they might think fit, if I may say so to make a sort of surprise visit to local auditors and make personal examination when occasion offered of the audit of their accounts.

2718. Do not you think that the existence now all over the country of constituted local authorities, of parish district and county municipalities affords a means for the Commissioners improving the knowledge of the public, on the one hand, in regard to these matters, and exercising more investigation and control on the other?—Yes, I have no doubt that that is so; but, on the other hand, I would not entirely bind the Commissioners absolutely to consult local authorities on these matters, because I think it possible that in small districts there may be occasional collisions between the trustees of a charity and, we will say, the Parish Council; and in that case I should not like to bind the Charity Commissioners not to employ some independent outside authority to examine into any accounts. I do not at all say that they should not very frequently and perhaps habitually consult the local authority; but I would not make it compulsory.

2719. May we have it from you as far as this, that the more perfect confidence the Commission show in these local constituted authorities the better?—Certainly.

2720. Passing from audit, have you anything to say with regard to the 50*l.* limit; I suppose you concur in the opinions which have been already expressed to us on that subject?—I concur with what I think is almost the unanimous evidence on that subject. Of course I feel that if you extend that 50*l.* limit, no doubt you will thereby increase the demand, whether rightly or wrongly, for Parliamentary control. You will unquestionably increase the demand for increased Parliamentary control over the affairs of the Commission if you extend the powers of the Commission.

2721. Of course any increase of the powers of the Commission, if the opinion of Mr. Lowther and yourself is that the Commission should be largely

Chairman—continued.

largely governed in accordance with public opinion, carries with it that also in your opinion as you have said?—No doubt it would carry with it an increased demand.

2722. And a legitimate demand may I take it?—Yes; I quite go so far as to say that Parliament has every right to insist that the Charity Commission shall be generally conducted in accordance with the wishes of the people of the country.

2723. And with increased powers must come the opportunity on the part of Parliament to see that those powers are properly exercised?—I have no doubt Parliament would do that.

2724. Have you anything to say with respect to the general position of the Commission?—No doubt it is what I may term departmentally weak as regards the Treasury; that is to say, that the Parliamentary Commissioner is not an official of such weight as to enable them to fight their battles with the Treasury with quite as much effect as if he were a Secretary of State. I do not regard this as of first-rate importance. I think such pressure should be exercised upon the Treasury as would enable the Commission to have an increase of its clerical staff, but I do not think that their position with regard to the Treasury is of such first-rate importance as to necessitate the creation of a new Minister simply to enable them to deal with the Treasury.

2725. Have you anything to add upon that, or would you generally concur with what Mr. Lowther has said?—I think I would say that I concur generally with Mr. Lowther.

2726. Do you desire to say anything further?—With regard to the position of Bills promoted by the Charity Commission, I am of opinion that there is sufficient Parliamentary momentum. I should be rather disposed to divide Bills generally that are brought into Parliament into five classes: First of all say there are the Government Bills of first-rate importance, which the Government of the day can of course pass through the House of Commons; it is merely a question of determination on their part. Then the second class of Bills which have the next best chance of passing are non-contentious, or only slightly contentious, private members' Bills which have the good fortune to be drawn early in the ballot. Then I would put in the third rank such schemes as those promoted by the Charity Commission and what I may perhaps term third-class Government measures, or measures favourably regarded by the Government but only semi-ministerial. Then I would put in the fourth class the second-class Ministerial Bills which are important, but not of the first order, and which are frequently slaughtered in the massacre of the innocents; and lastly the ordinary private members' Bill which is not well drawn by ballot, and which is opposed. And I think the Charity Commissioners' schemes may be said to come in the third class, and to have a very reasonable chance of passing; if they were more actively promoted by the Government I think their chances would be rather lessened.

2727. Does that apply to the last Government and to this Government?—To all Governments.

Chairman—continued.

2728. Did it fall to your lot while in the position of Parliamentary Commissioner to have to assist in the promotion or passing of a Bill?—No; I am in the position of the needy knife-grinder, "Story I have none."

2729. You heard, of course, the evidence of Sir Henry Longley given in answer to Questions 174 to 180 in respect to Parliamentary momentum; do I rightly understand that you take rather a more sanguine view of the question than he did?—I think so.

2730. Your experience as a Member of Parliament would lead you to think that it is not very difficult to get Bills through the House of Commons?—I do not think there is great difficulty in getting Commission work done.

2731. Why, then, has the 50*l.* limit not been removed when its removal has been recommended by a Select Committee, and a Bill removing it has been brought before the House?—No doubt that is an enlargement of the powers of the Commission. I do not say that questions of enlarging their powers would not create opposition in the House; I was rather referring to schemes brought in under their existing powers.

2732. It is to schemes, then, rather than Bills that your answers refer?—Well, schemes are mostly what Parliament has to deal with. The contentious matters under the Charitable Trusts Acts I do not think are very important from the House of Commons' point of view.

2733. Do I rightly understand you then that this sanguine view of yours of the chances of legislation applies not to Bills, but to schemes?—Yes; I beg pardon, but I am afraid I misapprehended the question. I take it, in the first place, that any Bill altering the powers of the Charity Commission would be a Government Bill, and as such the Opposition of the day would think it right to criticise it; and I do not suggest that it would go through as a non-contentious measure.

2734. The word "Bill" used by you in the outset of this portion of your examination really meant scheme?—Yes; I should have said scheme, I was wrong in saying Bill.

2735. Is there any other point you wish to refer to?—I think not. Of course, I have views on the general subject which the Committee has been appointed to inquire into, but I presume I shall have an opportunity of expressing them as a member of the Committee; and it, perhaps, would be hardly worth while to go over them twice. Of course I am in the hands of the Committee to answer any questions that they may like to ask me, but I do not care to volunteer any statement at the present moment.

2736. Of course we should like to have the advantage and benefit of your experience as Parliamentary Charity Commissioner?—I will reserve any views that I have on the general subject.

Sir *Andrew Scoble.*

2737. Do you think it would be advantageous to substitute for the present representation of the Charity Commission in Parliament by a Parliamentary Commissioner the more direct control and representation by a Minister of State?—No; I do not.

Mr. THOMAS E. ELLIS (a Member of the House); Examined.

Chairman.

2738. YOU entered the House of Commons, I think, at the General Election of 1886?—Yes.

2739. When were you appointed Fourth Charity Commissioner?—In November 1892; and I served in that capacity during the whole of the year 1893, and resigned early in the beginning of this year when I accepted another Government post.

2740. When were you first brought into contact with the Charity Commission?—During the Parliament of 1886-1892 in connection primarily with our endeavour to pass an Intermediate Education Bill for Wales; and also in connection with an endeavour to secure a new edition of the Reports of Lord Brougham's Commission. The evidence given by the Chief Commissioner before the Endowed Schools Committee of 1886 showed that there was a vast mass of undigested and unpublished matter relating to charities in the office, and he advised very strongly that the time had come for a new and complete edition of Lord Brougham's Reports, brought up to date by means of local inquiries. I had myself for some time felt that this was urgent, and especially urgent in the case of the Welsh counties, where there was a very strong desire for a reorganisation of secondary education.

2741. You have read the evidence given to us by Mr. Lowther, I presume, in which he described at considerable length the duties and responsibilities of the Fourth Commissioner, and the advantages accruing to the Charity Commission or to members of Parliament, from his membership of the Board?—Yes, as well as the evidence given by the Chief Commissioner and by the Secretary of the Commission.

2742. Is there anything you desire to add to that description of the duties?—No, I think not.

2743. Then, turning to the position of the Parliamentary Commissioner, will you kindly give us the benefit of your opinion as to whether it is satisfactory, and if not, how far it is unsatisfactory at the present time; I mean when you held the office?—It is only so far satisfactory as to make one feel that it can be worked much more satisfactorily or rather that a change is necessary. For instance, as Mr. Lowther pointed out, the Fourth Commissioner has no room in the office; he has no real grip of the hourly work of the office; and he has only such contact with it as he can obtain by attending the meetings of the Board twice a week, and there dealing with such matters as may be brought up for consideration.

2744. We had it from the Secretary to the Charity Commission that no agenda of the meetings of the Board goes out; therefore you were ignorant of what was going to be transacted there except by voluntary information given to you by your colleagues or the secretary?—That was so as a rule.

2745. You did not get as of right and officially before you came to the Board meetings any idea on the paper of the business you had to consider?—Certainly not. In order to make my evidence perfectly clear perhaps I may say that I understood from you that what you meant to ask was, was it an ordinary matter of course that the Parliamentary Commissioner should be informed of the business that would come before the meeting? Well, such notice was never given. I am quite sure that the Chief Commissioner and the secretary would give it if claimed or demanded, but as a matter of business it was never given. Then I feel that there is a disadvantage in the fact that the Parliamentary Commissioner has little or no initiative in the framing of schemes, which I think one of the most important duties of the Commission.

Chairman—continued.

2746. Has there been any suggestion made that the Fourth Commissioner should see proposed schemes prior to publication?—Yes; such a suggestion was made, and I think it caused considerable consternation in the office.

2747. Were you able to appreciate why such consternation arose?—Very naturally every Commissioner felt that he was responsible, and that to have schemes reviewed or changed, or even suggestions made upon them prior to publication, was rather trenching upon his responsibility.

2748. Was it ever suggested that it could be done?—Yes, and it was even promised; but the reluctance was so great that it was never carried out.

2749. As a matter of fact, it was never done?—No.

2750. In respect to replies in Parliament and defence offered there, have you anything to say to us on that subject?—The Commissioners are always very careful to give every facility to the Parliamentary Commissioner to obtain replies; but cases must crop up from time to time in which the Commissioner gives replies, and has to offer defence in relation to a scheme of which he may only faintly or partially approve, which undoubtedly from a Parliamentary point of view is a disadvantage.

2751. Why is it a disadvantage?—I think that the essence of responsibility in Parliament and of the relations of a Minister, or any official Member of the House towards the House, is that he can give replies upon his own responsibility and with full approval.

2752. While we are on this subject of questions, I will ask you, have you, as a matter of fact, got any figures with regard to the questions that were asked during your tenure of office?—As to the number of questions do you mean?

2753. As to the number of questions asked during your time?—No; I am sorry to say I have not.

2754. You cannot give us any idea on the subject?—I think there was some difficulty in making up the number this Session, owing to the fact that the annual index to "Hansard" has not yet been published; but I should think there must have been about 40 or 50.

2755. During your time do you mean or during

Chairman—continued.

during one Session?—During the Session during which I served. Of course a very large number of replies were given privately to Members.

2756. Did that work increase during your time the private intercourse as it were with Members, and explanations to them. There was a very great deal from time to time.

2757. Now turning to the position of the Fourth Commissioner in the abstract as it were, do you consider it adequate to his duties?—No, I do not think so.

2758. Why not?—I think the work of the Charity Commission has since 1853 grown so largely and so steadily that Parliament very naturally, and I think rightly, demands greater control of the work of the Commission, and a more direct responsibility. It seems to me that the very frequency of Select Committees and Departmental inquiries into the work of the Commission is an indication of the almost jealous desire of Parliament to obtain greater control of this growing work of the Commission.

2759. Have the recommendations of those Committees, so far as they involved legislative proposals and enactments, borne much fruit?—Not very much. Parliament is unwilling even to legislate upon the recommendation of these Committees upon the present basis and footing of the Commission, I think. That simple recommendation for instance, and, from an administrative point of view, urgent recommendation, that the 50*l.* limit should be abolished, has not yet been carried out; and there is no doubt that it does seriously hamper the work of the Commission. That I noticed over and over again during my short experience at the Charity Commission.

2760. It is agreed on all hands that it would improve the work of the Commission if that limit could be removed; it has been suggested many times; it has been proposed in Parliament; speaking now as a Member having a seat in the House and as an ex-Parliamentary Commissioner, would you say that it is hopeless to attempt to get that done at the present time; would you go so far as that?—I think so.

2761. And you give us as the reason for the hopeless nature of that proposal what?—That there is not sufficient direct responsibility to Parliament.

2762. Would you say that Parliament is unwilling to give further powers unless there is more direct control?—I think so.

2763. Have you had any experience since you have been in Parliament in respect to any particular Act of Parliament or Bill?—Yes. There was a Bill in 1887, a very useful but not very large Bill, for giving to the Charity Commission, with the consent of the Treasury, power to appoint Assistant Commissioners instead of inspectors, and for other administrative purposes; and, as a young Member, I was very much struck by the strong antagonism expressed in various quarters of the House to any Bill which would in any way extend the powers of the Charity Commission. I did what I could to help that Bill through. I do not think I had the strong suspicion of the Charity Commission which existed and which still exists.

Chairman—continued.

2764. Was that Bill brought forward at the instance of the Charity Commission and supported by the Government of the day?—Yes.

2765. The Government of the day being one at that time to which you would be opposed, in 1887?—Yes.

2766. And you did your best from the Opposition side of the House to help that Bill?—Certainly; and I think I was able for various reasons to do away with what would have been fatal opposition to it. And one reason why I did so was because the passing of the Bill would expedite what I considered an extremely important reform, namely, the beginning of the work of preparing a new edition of the Reports of Lord Brougham's Commission.

2767. Has anything been done in the matter since the passing of that Act?—Yes; the work was begun in Denbighshire, and a most admirable volume, thorough, full and reliable, has been published. Since then other counties, notably the West Riding of Yorkshire and London and Merionethshire, have secured similar inquiries, and will before very long have similar volumes giving a full and reliable account of all the charities within their boundaries.

2768. That is an illustration of the advantage to the public of the Charity Commission having some further well-considered powers?—Certainly, and I believe that if the Charity Commission was now more directly responsible to Parliament, the House of Commons would insist on its work being done much more expeditiously and much more extensively.

2769. Do you know, as a matter of fact, whether the Treasury is very willing to open the purse-strings to the Charity Commission, or the contrary?—I think they watch events and opinions in Parliament, and act accordingly. They press the Charity Commission hard with impunity, I think, because they know that the House of Commons is jealous of the Charity Commission on its present footing.

2770. You have read the evidence of Sir Henry Longley of course; do you concur with his suggestion in answer to Questions 175 and 176. Question 175 is: "All other departments have to derive the momentum which carries their policy through Parliament from the political party which happens to be in power?—(*A.*) Yes. (*Q.*) And you have not that?—(*A.*) No; and they have another momentum, a momentum which helps them to get what they want from the Treasury." You would concur with him that the Charity Commission has not that momentum?—I think so. I think Sir Henry Longley with his very long experience must have felt the truth of that; and I think it is only a tribute to his power and influence that he has been able to get so much on the present footing.

2771. Then I may take it from you that the Treasury, so far as your experience goes, constantly being aware of the present jealousy of the Charity Commission, not to say dissatisfaction with it, refuses with impunity to provide the funds for increasing the Charity Commissioners' work?—Of course, it is the natural instinct of the Treasury to do so; but in this case it is very much

Chairman—continued.

much strengthened by the state of feeling in the House of Commons.

2772. You are speaking now of course from experience, not at the Charity Commission but at the Treasury?—I am speaking now mainly from experience of a Member of Parliament and from keeping one's eyes open.

2773. I had better ask you, in order to get it on the notes, are you at the present moment Parliamentary Secretary to the Treasury?—Yes.

2774. Now, will you give us some indications of what, in your opinion, is the main cause of this state of things?—I think it is the very great growth of the work of the Commission without any corresponding change in its relation to Parliament. In 1853, although the duties then given to the Commission were limited, and circumscribed, and definite, such, for instance, as inquiring into charities and protecting the *corpus* of charity estates, yet Parliament even then felt that it would be wise and necessary to have one Commissioner a Member of Parliament.

2775. That was distinctly contemplated?—Yes, I think so. Now since then new and many-sided duties have been placed, or have by circumstances been forced, upon the Charity Commission. Take among others the reorganisation of educational endowments and of secondary education, a work of enormous and first-rate importance. Secondly, the whole question of popular representation on boards of trustees has come to the front.

2776. I think in the Committee of 1884, that was referred to as a somewhat new subject then?—I am not aware of that.

2777. I may read you the sentence on page IX. of the Report of that Committee. The Committee say: "It is stated that this introduction of the local representative element has been of comparatively recent date, and has been extended, as experience has shown that it has given satisfaction. Your Committee are of opinion that it is of great importance to give effect to this principle, and without laying down any specific rule as to the proportion of such representative trustees, think that it will be well to secure in the future a full application of this principle." As an ex-Parliamentary Commissioner, do you think that a very valuable principle?—A most valuable principle.

2778. And one which should be extended?—Yes; and it is a principle in the application of which Parliament demands a real voice.

2779. Not only was that hardly contemplated in 1853, but it appears that this Committee of 1884 remarked upon it as a new principle?—Certainly.

2780. During the 10 years which have passed since then has it become a principle of the utmost importance and suitable for extension?—Of the very first importance.

2781. Now, will you mention the next point which has cropped up?—During the last 10 or 15 years the question of allotments in its relation to charity lands has cropped up; and that again brings the Charity Commission into

Chairman—continued.

relation with the opinion of Parliament. Then there is the question of the extension of local inquiries into the history and working of charitable endowments, and the preparation and publication of statistical information as to those endowments. Those two are very important forms of work, and they are also indications of the greatly increased interest of Parliament and of the country in the growing work of the Charity Commission. Then there is another question of very great importance, which is slowly coming to the front, namely, the inspection of endowed schools; the inquiry whether the schemes of the Endowed Schools Commissioners have been carried out loyally, and whether genuine national work is being done in schools established under these schemes. During the last five or six years the Charity Commission has begun this work, but only begun it tentatively and partially. Certain small extracts from these reports have been published in the annual reports of the Commission; but the mass of these reports and of the reports of examiners of these schools lies in the Charity Commission office largely undigested, and comparatively useless.

2782. Is there any other point you desire to refer to?—Very strong demands have been made for a real audit of charity accounts, and at present, either owing to Parliament or to the Treasury, or to both, this has been impossible. Not only is there no audit, but the Charity Commission have had to admit in their reports and in Parliament that the sending in of annual accounts has been very much neglected by a large number of trustees all over the country.

2783. Then, have any Acts of Parliament been passed in recent years which have increased the work of the Commission?—Yes; not merely the Welsh Intermediate Education Act, which increased the work of the Commission, but the Local Government Acts of 1888 and 1894 have in various ways largely increased the work of the Commission; and before another couple of years are over the Commission and Parliament will feel that the increase has been nothing less than gigantic. Then what I feel is, that all these additional duties have been placed upon the Commission without any real change in its relation to Parliament; and I feel that they are all matters which ought to be dealt with by a Department directly responsible to Parliament through a Minister.

2784. Before we go into that, I will ask you this question: can you give us any illustration at all of the delay that takes place in the transaction of its business by the Charity Commission, a concrete instance of delay?—I think delay is incidental to the very system. In the Endowed Schools Act the framers, instead of putting the working of that Act directly under a responsible Minister, put it in the hands of a temporary Commission, and placed all manner of checks upon their action. Schemes had to be published for periods, both by the Commission and the Education Department; then Appeals were given to the Judicial Committee of the Privy Council and to both Houses of Parliament. The result of this is that there is, I think, irritating delay in the passage of

Chairman—continued.

of these schemes through their various stages. The matter has come home most directly to me in connection with Welsh schemes. The Intermediate Education Act for Wales was passed in the Session of 1889, and several of the schemes under that Act have not yet been passed into law. One has not even left the Charity Commission.

2785. That is the illustration you desire to give us in reply to my question with respect to delay?—Yes. I would give one further illustration which shows that delay is incidental to the present system of the passage of schemes by means of a Board. For six or eight weeks in every year the Board of the Charity Commission does not sit. During the holidays, practically during the months of September and October, the actual work of promoting and furthering schemes is stopped; the Board cannot meet, and there is undoubtedly from time to time delay.

2786. When you say "cannot," do you mean do not?—Do not meet as a rule.

2787. You do not suggest that there is any legal incapacity to meet?—No; but Charity Commissioners, like everybody else, must have a holiday, and they naturally take the holiday in summer.

2788. You used the word "cannot"?—Then I withdraw it from that point of view. It came home very directly to me during my own tenure of office. A scheme (I think it was the Flintshire scheme) was sent to the Education Department early last summer, in July, and after its first month of publication it was remitted for certain purposes to the Charity Commission. It was sent back just at the very beginning of September, I think the very first day of September. For two months, till the end of October, no progress was made with that scheme. The result was that when Parliament met after the vacation in November, the scheme for Flintshire had made no progress; and, owing to certain correspondence which had to take place between the two departments, correspondence which is incidental to the system of the passage of schemes by a board with the various checks by Government Departments and by Parliament, instead of that scheme coming before Parliament and receiving the final judgment of Parliament during the Session of 1893–94, it did not come before Parliament effectively until the 26th of March; and I think it only emerged from Parliament just at the very end of May, the 28th or 29th of May.

2789. You used the expression, "incidental to a board;" would you rather suggest to us that a board consisting of a number of gentlemen is a clumsy way so far as progress is concerned for transacting much of the business that comes before the Charity Commission?—On the whole it is. It has certain advantages, very direct advantages, but I think that taking it altogether it is clumsy and uneconomical; and I believe that very much of the best time and best brain power of the Commissioners are wasted by the fact that they have on two days of the week to give the best part of the day to work at the Board.

2790. Then what is the conclusion you have come to with respect to the matters which you have mentioned; are they in your opinion matters which should be dealt with by a Minister responsible to Parliament?—Yes. So far as I can see, all the matters which I have enumerated to-day as new duties placed upon the Commission since its constitution are matters which in essence do not differ from those dealt with by the Home Office or the Board of Agriculture, or the Local Government Board or the Education Department.

2791. You know that objections have been taken and suggestions have been made that so large a portion of the business coming before the Board is of a judicial character, that it would be undesirable, not to say improper, to transfer it to a Minister; have you anything to say on that?—Well I have heard it urged repeatedly, but for the life of me I cannot look upon it as anything but a legend.

2792. A tradition of the office?—Yes, a sort of tradition in the office, and to some extent outside the office since the time when these schemes and those matters were dealt with by the Court of Chancery. There are certain matters, and certain aspects of the work, which are perhaps a little more judicial than matters dealt with by other Government Departments; but the difference is not one of essence but of degree.

2793. Have you referred to the answers given by Mr. Fearon to Questions 2634 to 2665?—I read Mr. Fearon's evidence with as much attention as time would permit.

2794. You notice that Mr. Fearon there classifies what are called the judicial functions of the Commission?—Yes.

2795. Speaking generally, and so far as a layman can gave an answer on the subject, do you generally concur with what Mr. Fearon has said there from your experience?—Yes.

2796. Would you say from your experience that a large portion of this work, judicial or quasi-judicial, or whatever it may be called, is common to all Government Departments?—I would say so certainly. Take the sanitary code of this country. It seems to me that the Local Government Board has to construe Acts of Parliament as difficult and as complicated as any which have to be interpreted by the Charity Commission, and has to give quasi-judicial decisions as to the construction of those Acts. Most of the larger Government Departments have constantly to give decisions in the nature of judicial decisions. The Science and Art Department has given a number of decisions with regard to the construction of the Technical Instruction Act. The same thing is true of the Educational Department, more especially as far as I can understand, in matters relating to the transfer of schools under trust, a matter which is very like many of the matters which have to be decided by the Charity Commission. Then the Local Government Board gives quasi-judicial decisions in matters relating to the rearrangement of wards and to local rating; and under the Parish Councils Act they will constantly have to give quasi-judicial decisions with regard to the compulsory hiring of land.

2797. Have you had in a public department personally any quasi-judicial functions to discharge?—Yes; a few times, when I was one of the Commissioners of the Treasury, I had to take part

Chairman—continued.

part in quite judicial decisions upon matters of appeal from the War Office, with reference to payments for inventions made by civil servants and others in the employ of the War Office; and I hardly think that the Charity Commission can give any decisions more judicial than those were supposed to be.

2798. I suppose, as a matter of fact, most Government Departments have at their command expert legal advice?—Certainly, and to those experts they have in matters of law to defer, and naturally do defer, I should think; and one's experience as a Member of Parliament teaches one that Ministers very constantly, in reply to questions and in debate, accept and pin themselves to the opinion of their legal advisers and the experts in their departments.

2799. Then have you anything further to say upon that point?—No, except that if this very great and growing work of the Charity Commission is to be organised as other public work is organised, under a responsible Minister, the more distinctly legal side of its work must undoubtedly be done by legal experts. I think that great care would have to be taken in dealing with the more special and the more definitely legal part of the work of the office; but I must admit that to a layman it does not appear impossible to adjust and solve this difficulty.

2800. I suppose you further concur with Mr. Lowther and Sir Stafford Northcote, your predecessors, that the action of the Charity Commission should be largely guided by the well-known wishes of Parliament?—Yes.

2801. Do you think that that would be better secured by a Minister. I will put it as Mr. Fearon did: a great Minister of State at the head of a department, of which the Charity Commission was a sub-department, than by the Fourth Parliamentary Commissioner as he now exists?—I do most distinctly.

2802. Even at the present moment would you say that Parliamentary, that is political, control, has been useful to the Charity Commission even in its present form?—Yes, certainly, useful on matters which have been considered judicial, and on matters which are appealable to the Court of Chancery.

2803. Can you give us an illustration?—I think that part of the work which has been considered judicial includes the appointment of trustees, the vesting of property, and the establishment of schemes. Well, so far as the vesting of property is concerned, that has become very largely a formal mechanical matter; property is vested as a rule in the Official Trustee. But in the appointment of trustees, as to which there is appeal to the Court of Chancery, the report of the Charity Commissioners, and I think that the evidence of the Chief Commissioner before your Committee show that the Charity Commission has felt the great advantage of pressure from Parliament in securing representative trustees, and in beating down the opposition of obstinate private trustees. And in this matter Parliamentary pressure is after all nothing but political pressure; it may not be party pressure, but it is political pressure. So that even in a matter which is supposed to be very legal and very judicial the Charity

Chairman—continued.

Commission invites and welcomes and is grateful for pressure from Parliament.

2804. What, in your opinion, is the proportion of the business which has to be transacted by the Charity Commission as regards judicial on the one hand or administrative on the other?—I should say, although I speak with diffidence on the matter, that the vast mass of the work of the Charity Commission is administrative in the sense that the vast mass of the work of any of the Whitehall Departments is administrative.

2805. Of course, you have heard of the difficulty with regard to the judicial work to be done by the Commission, which has been put before us by more than one witness in the event of a great Minister of State being created, comprising the Education Department, the Science and Art Department, Secondary Education, the Charity Commission, and anything else that Parliament might desire; but what do you think the difficulty amounts to as contrasted with the present state of things?—I think it is small. I think the delays and anomalies and inconveniences of the present system are very great as compared with any difficulty there may be with regard to the judicial side of the Charity Commission's work. I believe that this great growth of the work of the Charity Commission, more especially in its relation to the new municipal bodies of the country, and more especially to secondary education, is such as to make it necessary that it should be organised like any other great Government Department, that it should be as responsible to Parliament, and that it should have at its command resources and means to deal, and to deal promptly and in a timely fashion, with this great and growing and national work.

2806. May we take it, then, that you would concur with Mr. Fearon that although there may be a difficulty, the difficulty is soluble, and must be surmounted?—That is so; that is quite my opinion.

2807. Is there anything that you desire to add in your examination-in-chief?—No.

Mr. *Howell.*

2808. You referred in your evidence-in-chief to the question of representative trustees?—Yes.

2809. Let me put this question to you; is it not a fact that the House of Commons insisted upon that principle in the Parish Councils Bill—the Local Government Bill of 1893–1894, and only gave it up after the House of Lords had modified it rather than lose the Bill?—That is so, and I may say the modification adds enormously to the work of the Charity Commission.

2810. You referred in your evidence just now to the point that a large number of accounts were not sent in to the Charity Commissioners as provided by the Act of Parliament?—That is so.

2811. Let me recall your attention to a question which I put to you in the House of Commons on February 16th of this year. The question was: "I beg to ask the honourable Member for Merionethshire whether he can inform the House as to the total number of charities during each of the last five years which have failed

Mr. *Howell*—continued.

failed to make returns as provided by statute, and whether it is the intention of the Charity Commission to compel those returns to be made." Your answer is given thus in "Hansard": "Owing to shortness of notice I cannot give a full or detailed reply, but on reference to the annual Report of the Commissioners I find that out of 49,000 charities the accounts for 17,000 had not in 1888 or 1889 been duly sent in, and that in 1891 and 1892 there were as many as 24,000. The Commissioners have not been able to cope with this neglect owing to the additional work entailed in the preparation of returns called for by Parliament and by county councils, but it is the intention and the practice of the Charity Commissioners to require, and if necessary to enforce, the returns of accounts of these charities as and when ascertained to have not been duly rendered." Do you still adhere to that reply?—Certainly.

2812. Can you give me any information as to the basis upon which that reply was given?—First of all upon this basis: That there are 60,000 charities in this country. Of those 60,000 there must be a certain proportion that are not productive of income, that are merely schools, or that are consolidated, so that the returns for perhaps five, six, seven, and sometimes even 10 or 12 charities may be rendered in one account. Now I deduct from the 60,000 15 per cent. in order to cover those cases, which would bring the charities down to about 50,000. I think that 15 per cent. is a very generous margin, but I do not think it is necessary for me even to take this rough percentage, because in an earlier reply which I gave in the House of Commons upon the authority of the Commission on the 13th November 1893, I stated that the number of endowed charities known to the Charity Commission and possessing endowment productive of income in England and Wales is 49,700, which practically comes to just the same figure as you arrive at by taking 15 per cent. off. Then, that being so, the number of charities being approximately 50,000, any Member can find, on reference to the annual Reports of the Commission, the number of accounts rendered. One finds that in 1888 the number of accounts rendered was 32,213, leaving roughly 17,000 unaccounted for; that in the year 1890 the number was 27,942, leaving 22,000 unaccounted for; and that in the year 1892 the number was only 23,272, leaving at least 25,000 unaccounted for. As a further confirmation of this fact, a reply which I gave on the 13th November points to the same state of things, that in the county of Essex up to the 11th November of that year out of 1,465 charities, accounts had only been rendered for 554; and in the county of Somerset out of 1,245 charities, accounts for 291 only had been rendered.

2813. You have doubtless seen some explanations given by the Chief Commissioner that some of those charities are not required to send in returns; have you taken that into account?—Certainly, in the 15 per cent. reduction.

2814. And do you still think that the difference between the 60,000 charities mentioned in the last Report and the number that have sent in accounts would stand at about, roughly speaking, some 24,000?—Yes, for 1891 and 1892.

Mr. *Howell*—continued.

2815. Do you know anything with regard to the efforts made by the Commission to get in the accounts of the charities?—I think that they have made great efforts; but during late years, especially since the Local Government Act of 1888, they have been unable to cope with these arrears owing to the increased interest taken by the county councils and by Parliament in the work of the Commission, and to the consequent strong demand they make for statistical information and for new digests and for all manner of information.

2816. Yet that part of the work which is insisted upon by statute, the sending in the annual accounts, has been neglected?—Certainly much to the regret of the Commission, I believe.

Chairman.

2817. Let us clear this up, if you please. I wish to refer you to Questions 1815 and 1816, and the answers. Question 1815 to Mr. Fearon was: "Then after the answer comes into the hands of the Parliamentary Commissioner, it lies with him to add to, or to subtract from, or in any way modify the form of that answer when it is given in the House of Commons?—(*A.*) Certainly, on his own responsibility. (*Q.*) I was going to add he does that entirely on his own responsibility as a Charity Commissioner?—(*A.*) Certainly." Then are we to take it from you with respect to the answer to questions that you gave in the House of Commons at the dates you mentioned that you did modify and deal with those answers at your discretion on your own responsibility?—In this case, I think, I amplified the reply. I think the honourable Member for Bethnal Green was himself the questioner in this case, and I had to amplify the reply because I knew that the honourable Member would insist, and rightly insist, upon getting as full a reply as possible.

2818. We have it from you (this is what I want to get clearly) that that is an illustration of the exercise of the powers that the Parliamentary Commissioner possesses of dealing on his own responsibility with answers to questions after they leave the office, otherwise than in the precise form in which they are supplied to him?—On his own responsibility.

2819. As a Charity Commissioner?—As a Charity Commissioner; and part of his responsibility is shown by the fact that he sometimes feels it his duty to give fuller replies to questions than the Charity Commission, or indeed any ordinary department desires to give in reply to questions in the House.

2820. May I put it that if the Parliamentary Charity Commissioner had not such discretion he could only very imperfectly fulfil his functions?—Yes.

Mr. *Strachey.*

2821. Following up what you have said, do I rightly understand that in your position as Parliamentary Charity Commissioner you could override the opinion of your fellow-Commissioners in the answers you gave to the House?—I think it could be done, but even a Parliamentary Charity Commissioner feels his responsibility, and certainly in my case I would not override the replies, but if necessary amplify them. I very often had to amplify them from information which I collected

Mr. *Strachey*—continued.

I collected from my experience in the office, and from my knowledge of the reports.

2822. But you did not consider that you would be justified in giving replies which would not have had the unanimous approval of the Board?—Well, I was very careful with reference to that.

2823. I am not asking you personally, but from your position as a Parliamentary Commissioner you did not consider that you had any greater authority than any other Commissioner?—No, certainly not.

2824. You had no right to change a decision arrived at, outside?—No; and that is what I consider one of the most anomalous and inconvenient parts of the work and position of the Parliamentary Charity Commissioner.

2825. Seeing that you had no greater authority than any other Charity Commissioner?—Certainly.

2826. And that you were more or less bound by the decision of the majority?—Yes.

Mr. *J. W. Lowther.*

2827. I am sorry I was not here when you were examined-in-chief; but I understand that you have given the opinion that the work of the Charity Commission has now reached such a stage that you think it ought to be under the control of a Minister?—Yes; and more than that I think it ought to be in the main organised like any other great Government Department.

2828. Do you suggest that there is to be a separate Minister dealing with charitable trusts, or that the work is to form part of the work of the Education Department for example?—I would not exactly say that it was to form part of the work of the present Education Department; I rather think that a better suggestion would be that it should form a department of the work of a future Minister of Education and Charities.

2829. You do not mean that there should be a separate Minister for all charitable trusts, educational or non-educational?—No, I do not think so.

2830. Then with regard to charitable trusts which are non-educational, I understand that in your opinion the future Minister of Education, the gentleman we have had referred to here as the ideal Minister, is to deal with these?—Yes, he is to be ultimately responsible.

2831. And do you think that he should take any part in the current work, I mean the routine work of the office, or that he should simply have a power of supervision?—Of course it is all limited by human powers. He would have the same powers of supervision and of interference as the President of the Board of Trade has in the Railway or the Bankruptcy or the Labour Department of the Board of Trade.

2832. Do you contemplate the continuance of the Board such as it has been during the time that you were a Parliamentary Commissioner?—Not necessarily.

2833. But that the whole department should be organised like any other department, the papers filtering upwards towards the chief?—Yes.

2834. And that this Minister whom you contemplate should have control of all educational questions including also charitable trusts, as I understand you, which are non-educational?—Yes, broadly and generally I would say so.

Mr. *J. W. Lowther*—continued.

Mr. *Freeman-Mitford.*

2835. Do you mean by that last answer that you would transfer to the newly created Minister the work that is now done by the Education Department under the Vice President of the Council?—That naturally would be part of his work.

2836. You would combine the work which is done under the Vice President of the Council with that done by the Charity Commission?—Yes. The first result would be that the Charity Commission would be brought into much the same relation with the responsible chief of the Department as the Science and Art Department and the present, what one may call Primary, Education Department are in to the Vice President of the Council.

2837. A short time back, I think it was in answer to the honourable Chairman, you told us that in your judgment there was a good deal of waste of brain work in the meetings of the Board which take place twice a week; a good deal of waste of brain work on the part of the Commissioners?—It is not so much perhaps waste as non-utilisation of brain power.

2838. But supposing that you had a new Minister such as you have described, would you not think that still it would be wise to have a Board, and make him President, as it were, of the Board?—My reply to that would be that I would try to avoid it if possible. If it is absolutely necessary then one would put up with or support it, but not at all as an ideal arrangement.

2839. I was trying to bring this out rather; that in most Departments of the Government where judicial or quasi-judicial decisions have to be given as a matter of practice, it has been found convenient that there should be a Board even if that Board is only nominal?—I know that, but it is rather a fiction I think.

2840. To a certain extent it is a fiction, but at the same time it is convenient?—Yes. Well, from that point of view I would have no objection to it; but I think that as a matter of organisation, on the whole it would be better that it should be organised like any other Government Department.

Sir *Andrew Scoble.*

2841. While you were Parliamentary Charity Commissioner you were also one of the Commissioners of the Treasury, were you not?—Yes.

2842. And Junior Parliamentary Whip?—Yes.

2843. And those duties took up the greater part of your time?—Yes.

2844. Am I right in supposing that in your case it would have been impossible for you, having regard to your other duties, to take a real part in the daily work of the Charity Commission?—No, I think it could have been done.

2845. How much time a day could you have given to it?—I believe I could, if necessary, have given on four days of the week what I gave on two days for Board meetings.

Sir *Andrew Scoble*—continued.

2846. Then you would only have been able to take a greater part in the daily work of the office on those four days of the week by the abolition of the Board meetings?—Certainly; and in any case no Member of Parliament can take very much or very active share in the work of the Charity Commission so long at it is organised on the present basis, because each Commissioner is responsible for a part of the country, and for a special form of the work.

2847. An ordinary Member of Parliament, having no official duties, could attend at the Charity Commission daily for some hours, if he chose?—Yes.

2848. But an official Member of Parliament could scarcely be expected to do that?—A Lord of the Treasury could do it easily, because his real duties in the House of Commons do not begin till three o'clock.

2849. When did you perform those judicial duties you have been telling us about?—They were not very numerous, I am happy to say, and one was able to do it on days when we did not meet at the Board meetings.

2850. You do not think that you would have had time to see all the proposed schemes which are prepared in the Charity Commission?—Yes, certainly, all the schemes of real importance; schemes, for instance, appointing new trustees, and diverting the uses of a charity; they are not so very numerous.

2851. But you could have seen all those schemes if you had wished, if you had asked to do so, could you not?—I could not say that was my experience.

2852. Were you ever refused the inspection of any scheme during the time that you were Parliamentary Charity Commissioner?—I do not know that I was refused the inspection of them; but, certainly I did not get what I desired to get, namely, that the schemes should be brought before the Parliamentary Commissioner before they were published, for his notice, and for his suggestions.

2853. Would not that have been constituting a Board of two: the Commissioner who prepared the scheme, and the Parliamentary Commissioner who wished to inspect it?—Very likely; and that, I say, illustrates the anomaly of the present position, and its unsatisfactoriness: that the one who is supposed to be responsible to Parliament cannot, as a matter of course, without forming a Board of two, look over and make suggestions with regard to schemes involving such questions as the election of representative trustees, and the diversion of charity funds.

2854. With your Board of two, how would you have settled it, if you had disagreed?—As a matter of fact it would not have been a Board of two; as at present arranged the Commissioner would have perfect right to refuse or accept suggestions made by the Parliamentary Charity Commissioner.

2855. Then if the Parliamentary Commissioner and the other Commissioner had not agreed on a scheme, what would have happened?—What generally happens at a Board, that the majority must prevail.

2856. Then, even with your suggestion of the

Sir *Andrew Scoble*—continued.

Parliamentary Commissioner and one other Commissioner considering all schemes together, a Board might have been useful to decide cases of difference between the two?—As at present constituted, certainly; but many of these schemes do not come really before the Board.

2857. Then you admit that, in the present constitution, Board meetings are necessary?—Yes, certainly.

2858. Now, if you had not a Board, what would you put in its place; I am not speaking of the Minister, but I am speaking with regard to the preparation of schemes; what would you substitute for the Board as regards the preparing and settlement of schemes?—I think that the organisation of a Government Department would be able to cope with it. The drafting of the scheme would have to be done after the main lines of it had been laid down by either the permanent chief or the political chief of the Department.

2859. Then you would substitute really a departmental secretary with a subordinate staff for the Board?—That is, I consider, the better plan for coping with great and growing work such as has been placed upon the Charity Commission during the last 30 or 40 years, certainly during the last 20 years.

2860. Do you think work of the kind that is done by the Charity Commission would be better done by a secretary and a political chief than it is done now by a Board on which you have the independence of mind of four or five gentlemen of experience brought together for the consideration of the matter?—Well, I think that in some cases it might be better done; and certainly I believe it would be more expeditiously done; and I think that it would be done more in accordance with the general view and general system of government in this country.

2861. Is not the general system of government in this country rather favourable to the doing of work through a Board?—No, I should say not.

2862. You have the Board of Customs, for instance, and the Board of Inland Revenue?—Those two, dealing with specific work, are quite under the control of the Treasury; but if we take the mass of the administrative work of this country, and especially all the new work that has been done, it is done under the system of gradation and organisation of a Department such as the Local Government Board or the Board of Agriculture.

2863. Now upon the question of the special work of the Charity Commission; you do not think much of its judicial functions, if I gather right?—I do; just as I think very much of them in connection with other Government Departments. It is in such functions as those that the real responsibility of the chiefs of Departments arises.

2864. In other Departments, I think, from the illustrations you gave, your mind was rather directed to questions of construction of the Acts of Parliament on which they worked, was it not?—Partly.

2865. But the Charity Commission has, besides construing its own Acts of Parliament, to exercise judicial functions of another character, has it not?

Sir *Andrew Scoble*—continued.

not?—A certain number. But take, for instance, the framing of schemes; I think that in the main that is more administrative than judicial. That it is administrative is shown by the fact that in the Welsh Act the work was given, if they desired it, to Joint Education Committees; three of their members being appointed by the County Council, and two by the Lord President of the Council.

2866. But the framing of schemes is not the only judicial business of the Charity Commission, is it?—It is one of the forms which is held to be most judicial, because there is an appeal in that matter to the Court of Chancery.

2867. Now, in framing schemes, the Commissioners have frequently to act upon evidence which is taken in regard to the schemes themselves, have they not; local evidence?—Simply the evidence obtained by an Assistant Commissioner; an ordinary inquiry like a Local Government Board Inquiry or an Education Department Inquiry.

2868. Then would you be content to devolve the consideration of that evidence upon a Departmental Secretary, rather than upon the Board as at present constituted?—The Board as at present constituted does not hear the evidence at all.

2869. I know that; I am speaking about considering the evidence; would you rather leave the consideration of the evidence to a departmental secretary than to a Board such as you have at present?—The consideration of it now is mainly left in the hands of one official, and whether that official is called a Commissioner or is called a permanent secretary to the Department, or an assistant secretary responsible to a political chief, makes, it seems to me, very little difference in the value of his work.

2870. Yes, but he has the advantage of bringing any matter as to which he is doubtful before his colleagues for their consideration?—Certainly; so has the permanent secretary of a Department the opportunity to bring it before the mind and submit it to the decision of a Minister who is responsible to Parliament.

2871. Do you think that consultations with such a Minister would be of the same value as consultations with other men engaged in the same class of work, or familiar with it?—Certainly, or else the government of this country is based on a thoroughly wrong system.

2872. Well, I will not go into that; I only ask whether you consider that a political chief who can give only a short time to the consideration of such questions can give as sound and valuable an opinion as a body of men who are conversant with these matters and are in the habit of daily considering them?—Yes, certainly, his whole mind is given to the consideration of the principles underlying such questions.

2873. You say that you think Parliament is unwilling to legislate on the footing of the present Commission?—Yes, that is my opinion.

2874. When you say "Parliament is unwilling," you mean that that is your view?—I mean that anyone can gather it, as for instance one gathered during the stages of discussion on the Parish Councils Act, that not in one political party but in various parts of the House, there was this reluctance; and I think, speaking of the Charity Commission themselves, we constantly felt in talking these matters over that the Charity Commission was from time to time suspected and criticised very hotly from different points of view by all parties in the State.

2875. Do not you think that that reluctance arose rather from a desire not to add to the labours of the Commission than from any doubt as to the capacity of the Commission to perform those labours, if supplied with sufficient means?—I do not think Parliament has ever shown much tenderness in not adding to the work of any Government Department or Government Commission.

2876. Has there ever been any definite proposal made to Parliament within your knowledge to alter the constitution of the Charity Commission?—I do not remember any now to alter it radically. I ought to say that last year an effort was made in the House of Commons (it was by private members), practically to abolish the endowed schools side of the Charity Commission.

2877. And it did not succeed?—No, it did not.

2878. But there has been, so far as you are aware, no proposal made to Parliament to alter the constitution of the Charity Commission in any organic way, although there have been many occasions on which additional work has been cast upon the Charity Commission?—That is so.

2879. Now is it not the fact that the only difficulty that the Charity Commission have hitherto experienced in dealing with the work cast upon it has been the want of sufficient staff, a sufficient Parliamentary grant to enable it to have a staff adequate to cope with its work?—That I have no doubt is the view which the Charity Commission would naturally take, and I think the view which a large number of Members of Parliament take, and I think the general sense of Parliament is that there should be considerably greater responsibility to Parliament if the work——

2880. I am not asking about responsibility to Parliament, but about the adequacy of the staff to do the business?—I cannot, of course, speak the collective view of the Charity Commission, but I rather think they would hesitate to affirm that they are capable under the present footing, even with a larger sum of money, to deal thoroughly with the reorganisation of secondary education in this country.

2881. But that has not been cast upon them yet?—Certainly it has been cast upon them since the union of the Endowed Schools Commissioners with the Charity Commissioners by the Act of 1874.

2882. Is not that simply in connection with the endowed schools side of the question, not in regard to the organisation of secondary education generally?—Exactly so; but I think the endowed schools side of it is far and away (or has been hitherto at any rate) the more important side of it. The secondary educational endowments of this country are immense, and are growing in value; and many people believe that even without very great additions of public money these endowments are nearly sufficient to enable us to have a very fine system, a well-organised

Sir *Andrew Scoble*—continued.

organised system, of secondary education in this country.

2883. Then is it your opinion that the Charity Commission as at present organised is incapable of dealing with that matter if it had a sufficient staff?—I rather think that they are hardly capable of dealing with it in any very large and comprehensive sense.

2884. In regard to the duties cast upon them by the existing Acts of Parliament, is there any reason but the want of sufficient staff why they should not fully and completely discharge those duties?—Nothing very serious, but I believe that it is in itself an extremely serious matter that the Treasury feels that it has Parliament with it in the refusal of the large sums of money which would be necessary for dealing with, say, accounts and secondary education, and these new inquiries which are being made into the charities of each county.

2885. We have heard from Mr. Fearon that a small addition to the clerical staff would be sufficient in his opinion to grapple with the work which the Charity Commission now have to do; do you agree with that?—I did not read Mr. Fearon's evidence in that light.

2886. I think he spoke of about something like six extra clerks; that it was a case of addition to the clerical staff?—I think that he spoke of a small addition to the clerical staff as the first requisite for dealing with that sectional side of the work of the Commission, namely, the proper overhauling of accounts; but that is only a very small part, after all, of the work of the Commission.

2887. Can you explain at all how it is that the Charity Commissioners have not received this small additional grant which would enable them to complete their clerical establishment?—No, I cannot explain it except upon the general lines which I explained in the beginning of my evidence, that Parliament is unwilling and the Treasury is unwilling to add largely to the powers and means of the Commission on its present footing.

2888. Do you really think that Parliament would be unwilling to grant the proper clerical establishment to enable them to cope with the work which they already have to do?—I cannot say; I know that from year to year there is considerable criticism of the sums spent upon the Charity Commission on the Estimates, and there was a very formidable vote against the Charity Commission Vote last year.

2889. Would you see any objection to making the necessity for applying to Parliament less by the imposition of fees upon moneys which pass through the hands of the Charity Commission?—I think that it has been found quite impracticable. Various Ministries have tried from time to time to solve that question. I believe that on one occasion, in 1868, there was a Resolution of the House carried by a majority of one in favour of this, and that various Ministers tried to carry it out, but they failed; and I believe that now Ministers and the Treasury have quite given up the hope that we may be able to get out of the funds of charities a sufficient amount to carry on the work.

Chairman.

2890. Would that raise the whole question of taxing or rating charities?—I think it would, if followed up.

Sir *Andrew Scoble.*

2891. We have had it in evidence that the income which passes through the hands of the Charity Commissioners is 440,000*l.* a year; a very small percentage on that would give, would it not, all that is necessary for carrying on the work of the Commission?—It would, but in the application of it it works out in this way: that the percentage would fall most heavily on the charities that are best organised; for instance, the charities of the great hospitals in London; and when the effort was made (I think it was in the 1874 Parliament) to do this the Minister at the time had to withdraw it, because the opposition from hospitals and the great charities of London was far too great for him. He had to withdraw it one Session, and promised to bring it forward in the next Session: but when the next Session came, he said that the opposition had been so great and so formidable that he dared not make the proposal again. I think it was Sir Henry Selwin-Ibbetson who made the proposal.

2892. There is only one other matter that I want to ask you about; in your new organisation of the Charity Commission Department under a Minister, what would you do in regard to the appeals to the Court of Chancery and the Judicial Committee; would you give any appeals from the Department to the Court, or would you abolish that jurisdiction altogether?—No, I do not think it would be very difficult even to keep it as it is; because in certain cases there is now appeal to a court of law against the decision of a responsible chief of a Department. Under the Endowed Schools Act itself there is an appeal from the decision of the President of the Council to the Judicial Committee of the Privy Council; and if it was felt to be any strong guarantee, I would keep this power, which now is very seldom used.

2893. Do not you see any objection to placing a political Department such as this contemplated Department would be in any way under the concurrent jurisdiction of the Court of Chancery, and of Parliament?—No, no more than there is now in regard to the instance I mentioned, namely, the appeal from the President of the Council to the Judicial Committee of the Privy Council.

2894. But how if the Minister had taken a certain course in regard to a particular charity, and the Court of Chancery took a different view?—He would have to do the same then as he would have to do now if the Judical Committee upset a scheme of his in the case of an endowed schools scheme; he would have to consider the position and the circumstances.

2895. You see no difficulty in that conflict?—No practical difficulty, because though the Court of Chancery has been undoubtedly kept as a final court of appeal here, as a fact the Charity Commission has really outgrown it; the number of appeals is extremely small.

2896. Is not that because the Charity Commissioners do their work so well that the Court

Sir *Andrew Scoble*—continued.

of Chancery find no occasion to overhaul it?—Very likely, and I see no reason to believe that if it were organised like any other Government Department it would do this work less efficiently.

Sir *Stafford Northcote.*

2897. You told us something about your labours in connection with the passage of the Welsh Intermediate Education Act; were your difficulties Parliamentary or departmental?—I had no difficulties in the passage of the Bill so far as the Department was concerned. In fact, we had every help that could be given by the Charity Commission. I may say that in connection with that, there was a very strong feeling in Wales against being placed under the Charity Commission; so great that, when it was proposed by the Government in amending the Welsh Bill to do that, there was a danger lest the Bill should be wrecked; and personally I did my utmost to save the Bill, and to work quite cordially with the Charity Commission.

2898. But if it had been wrecked it would have been the act of the House of Commons, and not of the Charity Commission?—Certainly, but the feeling against the Charity Commission was very strong.

2899. To go to another point, do you suggest that the Parliamentary Commissioner should make schemes himself?—No; my feeling with reference to him is that he is in an indefinite and irresponsible position, considering the magnitude and the many-sidedness of the work now devolved upon the Charity Commission.

2900. From one of your answers I was not quite clear as to whether you suggested that he had no power himself of making a scheme; in that case I have a question to put?—No.

2901. May I ask whether you found any difficulty with your colleagues at the Charity Commission in securing access at any time to papers?—Not at all; they were most courteous and ready to do anything in that way.

2902. I think you gave it as your opinion that the Parliamentary Commissioner could exercise a certain superintendence generally of the work of the Commission, or take an active part in the work of the Commission, notwithstanding the fact that, as in your case, he had his Parliamentary work to do, and also the work devolving upon yourself as one of the Secretaries to the Treasury?—Yes, but to no very large extent, so long as the Commission is organised on its present lines of cutting up the country, so to speak, into two or three districts, as the case may be, and giving the primary responsibility for all that work to a particular Commissioner.

2903. My point rather was that if you were able to do your work as a Member of Parliament and as a Government official, and if you also felt yourself able to do as fair an amount of work as any individual Charity Commissioner, the inference rather is that the Charity Commissioners have not enough to do. If you can do as much as any one of them, plus your work as Secretary to the Treasury, and plus your work as a Member of Parliament, they must have an easier time of it than I think they would be willing to admit?—I would not quite admit that. Of course, if the immediate responsibility

Sir *Stafford Northcote*—continued.

for a third of the country, and for doing all the work relating to a third of the country, were placed upon the Parliamentary Commissioner directly, he would himself have to draw up schemes and keep a general view of the work. I do not suppose that, under present conditions, a Parliamentary Commissioner would be able to do that unless he had at his disposal the ordinary machinery which every Minister has, of secretaries, and the power at any time to examine papers and records of various officials of the Department.

2904. I rather understood your answer to the Chairman to imply that you were ready for the work if the work had been ready for you?—That was undoubtedly so, and I should think that any Member of Parliament who is a Charity Commissioner might be able to do a very large amount of work which now is not offered to him in any shape or form, because the work is, so to speak, geographically distributed.

2905. May I ask whether you attended the Charity Commission Office frequently?—I only attended it when there was special work to do, coming not from the Commission but from Members of Parliament. I often attended in various ways and communicated with the Secretary, and sometimes with the Commissioners, and every help was given to me in any work which I desired to get done.

2906. I presume during the Parliamentary recess you did not feel that your duties rendered it necessary that you should attend at the Charity Commission?—No. Last year it happened that we had very little Parliamentary recess.

2907. In the event of the Parliamentary Commissioner being retained, and that increased authority given to him which your evidence rather seemed to indicate, it would be necessary for him surely to be in much closer attendance if he is to have any controlling voice at all in the adoption of schemes?—I cannot have made myself clear if I indicated in giving my evidence that reform lay in increasing the work or the responsibility of the Parliamentary Commissioner; my own personal opinion is that the best thing for the public service, especially for the future of secondary education in this country, is that this whole Department should be placed directly under a responsible Minister of State.

2908. I quite understood that to be your opinion; but in the event of so sweeping a reform not taking place, I rather understood a great deal of your evidence to go to show that the powers of the Parliamentary Commissioner were insufficient; and if they are to be increased, it stands to reason almost that his attendance must be more constant at the Office?—Certainly, if the work is to increase and to be made really efficient, and to be made anything approximate to the ordinary work of a Minister.

2909. With regard to your Treasury experience as Parliamentary Secretary to the Treasury, you were speaking about the complaints of the Vote for the Charity Commission. The amount you would know as Parliamentary Commissioner, but as Parliamentary Secretary to the Treasury you do not have to deal directly with applications made by one Department to another?—No, not at all; and of course, since I have been Parliamentary

Sir *Stafford Northcote*—continued.

mentary Secretary to the Treasury I have not been Charity Commissioner.

2910. Then with regard to the opinion you have expressed as to the reports of endowed schools, which you said were at present stowed away in the pigeon-holes of the Commission, of course it would be quite possible by any order of Parliament that they should be published to the world at large without the status of the Commission being in any way involved?—That no doubt might be done, but I referred to that as an instance of what I considered the anomalous state of things now, when the Charity Commission is only indirectly responsible for the secondary education system of this country. I have no doubt for my own part that if this work were placed under a responsible Minister, he would make it his duty to insist that this work of inspection shall not be as it is now, partial and temporary, but it should be general and systematic and continuous.

2911. But with regard to the specific instances you gave of the reports, and also of the publication of accounts, greater publicity could easily be obtained without any such change as altering the whole composition of the Charity Commission?—I think that might be possible, but even if that difficulty were solved other difficulties will arise constantly so long as the present condition of things obtains.

2912. I do not know whether I may take it that you agree generally with the evidence given by the Secretary to the Commission as to the desirability of establishing a Minister of Charities and Education?—In the main I certainly do. I think that will be the only solution when Parliament comes to deal earnestly with the matter.

2913. You spoke of the gigantic increase of the probable work of the Charity Commission?—Yes, owing mainly to the action of the House of Lords.

2914. Would you be disposed to add a gigantic burden to the shoulders of the present Minister of Education?—Well, I think I would be quite willing to add it to his work if the whole of the Department were organised as other great Departments are organised. Take, for instance, the Board of Trade; the work which has been devolved upon the Board of Trade in various ways during the last 10 years is nothing less than gigantic, yet the work is well done, because it is organised like other Government Departments. Take, for instance, the Bankruptcy Act of 1883 and the amending Acts; all that Department has been organised on precisely similar lines to other Government Departments, and the work has been done under the general supervision and direct responsibility of the President of the Board of Trade; and the work has been done well and to the satisfaction of Parliament.

Chairman.

2915. Would you add the Railway Department of the Board of Trade?—I would, and I would add the Labour Bureau of the Board of Trade as the most recent instance.

Sir *Stafford Northcote.*

2916. You gave us evidence about delays in the establishing of schemes in Wales; are not those delays mainly caused by the opposition of certain parties in the localities affected?—No, I think they are delays incidental to the double process, first of all, of legislation on the lines of the Endowed Schools Act, and secondly, incidental to the Board system of working as against the ordinary departmental system.

2917. Could you illustrate what you mean by the delays incidental to the Board system of working, in what way you consider that the fact of the Charity Commission being a Board causes greater delay than if it were a Department under a single Minister?—First of all, take the case of Wales. The whole of Wales is put under one Commissioner, and the other four Commissioners have directly nothing to do with Wales; they have no real acquaintance with the Welsh work. Therefore all the work that may come at any time falls upon this one Commissioner. He may deal to-day with two or three schemes, he may be dealing with, say, the schemes of Anglesey, Cardigan, and Glamorgan, and he may do the work expeditiously and quickly. Now, he cannot take any further step with those schemes, except at the Board. At one Board practically nothing but charitable trusts work is done; at another Board he will have to explain all the details and circumstances which lead up to the decision he wants to get, and he may at one Board be able to get through one scheme or half a scheme. In that way weeks very frequently pass by before a Commissioner can submit to the Board all the circumstances and details of a scheme, whereas if it were done by a responsible Minister his permanent chief could bring the whole case before him for decision, and say, "I want your decision on this," and the decision could be given in the course of the day, and the case go forward; whereas with a Board week after week very often passes without a prompt decision being come to.

2918. Is it your experience that when a Commissioner has his scheme completed and ready to present to the Board, weeks pass before he is able to obtain the assent of his colleagues to that scheme?—Certainly, so far as the whole scheme is concerned. Very often a Commissioner has to say, "There are certain points which still remain undecided; I will have to bring them to a future Board," and the future Board may be in a fortnight or three weeks. We know very well that a fortnight or three weeks may make all the difference in the final stage of a scheme, because, as you are well aware, every scheme must lie on the Table of Parliament for two months during the same Session if petitioned against; and just a delay of a fortnight or three weeks at the Commission may throw a scheme from, say, August in one Session to February in the next Session, and so waste four or five or six months, as the case may be.

2919. You said something about the anomalous position of the Charity Commission; I do not quite understand in what its position is more anomalous than some other Boards that have been mentioned to us in the course of the Inquiry which have no direct representation in Parliament, such as the Woods and Forests for instance?—With regard to the Woods and Forests I would say first of all that its work is much

Sir *Stafford Northcote*—continued.

much more circumscribed than that of the Charity Commission; and secondly that it is much more subordinate to the Treasury than the Charity Commission is to any other Government Department.

2920. I do not quite know what you had in your mind with reference to the anomalous position of the Charity Commission?—Well, I had a good many things in my mind; but one thing that stands out most prominently of all is this, that it has great and important national work to do in essence differing nothing or differing little from the work which other great Departments have to do; that its work is being done by a Commission which is not directly responsible to Parliament, whereas similar and analogous work is done by Departments which are presided over by a Minister who is generally a Member of the Cabinet, and always directly responsible to Parliament.

2921. With regard at all events to his work under the Endowed Schools Acts, did you not hold when you were Charity Commissioner that the adoption of any scheme by the Education Department transferred the responsibility for that scheme to a Government Department represented in the Cabinet?—No, far from that; differences arose between the two Departments, and the Charity Commission refused to accept responsibility for certain schemes modified by the Education Department, which I considered a very grave and anomalous state of things.

2922. But no scheme could be brought before Parliament without the sanction of the Education Office; the Charity Commissioners might say that they disclaimed the responsibility for it, but they have no power to lay any schemes before Parliament under the Endowed Schools Acts without the consent and approval of the Education Office?—That is quite so, but it seems to me to be a very grave anomaly in the Government of this country that a scheme should come before Parliament accepted and approved by one Government Department and partly repudiated by another.

2923. There is only one more question I want to ask you upon a matter of fact: when the Chief Commissioner gave his evidence the honourable Member for Bethnal Green put a question to him as regards an answer given by yourself which has already been referred to to-day; that answer was given by you on your own responsibility, I think, and it was not identical with the answer submitted to you by the Chief Commissioner?—That is so. If you desire I could give the two.

2924. I think it might be of advantage because the Chief Commissioner when he was questioned upon it could not recall the circumstances entirely; and I think it might be as well to have on the Notes the formal clearing up of the matter?—I think that on the whole this is rather an instructive illustration of the difficulties of the position. Mr. Howell asked this question on the 16th February 1894: "I beg to ask the honourable Member for Merionethshire whether he can inform the House as to the total number of charities during each of the last five years which have failed to make returns as provided by statute, and whether it is the intention of the Charity Commission to compel those returns to be made?" Now, what I desire first to point out is this; that Mr. Howell asked me specifically to state the total number of charities during each of the last five years which have failed to make returns as provided by the statute. Now, the reply which was sent to me from the office was this—

Chairman.

2925. Duly initialled?—Initialled by the chief of the Department: "The investigation required for the purpose of ascertaining the number of these charities would occupy so much time and involve so much labour as to be subject to the same objection as that which was expressed in the answer given to the honourable Member on the 15th instant."

Mr. *Howell.*

2926. That was the same month?—Yes.

2927. That had reference to another matter?—A similar matter. On my own responsibility I felt that that reply was so unsatisfactory, and Mr. Howell had pressed upon me so much to give as near as possible the approximate figures, that I went first of all to "Hansard" in order to find out what reply I had given upon the authority of the Commission as to the exact number of charities with income, and I found it to be, as I said before in my evidence-in-chief, 49,700 according to a reply which I had given on the 13th November. I then went into the Library and found the Reports of the Charity Commission for the last five years, and I then gave him the difference between the number of accounts rendered, according to the Report of the Charity Commission, and the number of charities for which there is separate income, which I had given in the House on the 13th November, and I gave this reply: "Owing to the shortness of notice" (Mr. Howell had, I think, put the question down a day before) "I cannot give a full or detailed reply, but on reference to the Annual Report of the Commissioners I find that out of 49,000 charities" (namely, the number which I had referred to on the 13th November) "the accounts for about 17,000 had not in 1888 or 1889 been duly sent in, and that in 1891-92 there were as many as 24,000." Those are, roughly, the figures which I gave in my evidence-in-chief to-day on the authority of the Annual Report of the Commission; and then I added, "The Commissioners have not been able to cope with this neglect owing to the additional work entailed in the preparation of returns called for by Parliament and by county councils."

Sir *Stafford Northcote.*

2928. That was undoubtedly a case of amplifying an answer, of which I think you expressed your approval. Your summary was a considerable amplification of the material submitted to you by your colleagues?—Certainly. The reply as it came from the Office was really a blank negative to a question asked me by a Member of Parliament; and in order to amplify that, or rather to compensate for what I considered a blank negative, I took the trouble to go to the Library and look up "Hansard"

Sir *Stafford Northcote*—continued.

"Hansard" in order to give as full a reply as I could to the question of the honourable Member.

Mr. *Wickham.*

2929. You told us (at least I understood you to say) that a great deal of delay arose from the arrangements now obtaining at the Commission, by which one Commissioner prepares a scheme, and then brings it to the Board meeting, when it is discussed by all. Under the system you propose there would be one Minister, and one official would prepare a scheme and remit it to the Minister, who would accept it?—Not necessarily so. I take it that in a Department organised on the system common to all the Departments of this country such a scheme as that might pass through the hands of several of the higher officials in the office; they would prepare such a scheme upon general principles laid down by the Minister; and the Minister, perhaps, in the course of the construction of the scheme, and certainly in its final stages, would review it, and in consultation with his officials would change it and finally approve it.

2930. Then you think it would be as well considered under your scheme, with less loss of time?—Decidedly so.

Chairman.

2931. Turning again to what you have termed the illustrative action you took in respect to that question in Parliament, are we to understand that, from your experience as a Member of Parliament, you thought the answer sent you on that particular occasion from the Commission was not quite sufficient for the atmosphere of the House of Commons?—Certainly.

2932. You thought that the House of Commons as a representative assembly was entitled to more information from a public Department than the question as originally answered enabled you to supply?—Most certainly. May I illustrate that? I take it that it ought to be known in such an office as the Charity Commission how many charities there are for which accounts ought to be rendered to the department each year, and that members of Parliament have a perfect right to know that number if they desire to know it.

2933. Now turning to another point; when you became a Parliamentary Charity Commissioner you found, as has been described to us by Mr. Fearon, that the ground was geographically covered both on the charitable trusts side and the endowed schools side?—That is so.

2934. And therefore as a matter of fact that no Parliamentary Commission has any district either large or small allotted to him?—Quite so, no district whatsoever; and although under the circumstances the organisation of the department is very good, yet it is very curious, considering the way Charitable Trusts and Educational Endowment touch one another and are sometimes the same, that the country should be differently divided for endowed schools work and charitable trust work. That must lead to a certain reduplication of the work.

2935. Therefore the Parliamentary Charity Commissioner sits at the Board with his colleagues as a person who is and must be without any district assigned to him, without any work coming up to him from a district?—Certainly; he is an outsider whose opinion is asked, and whose opinion may be adopted or may not be adopted as the case may be.

Chairman—continued.

2936. Now, turning to another point, bearing upon the word "judicial," of which we have heard a great deal in this Committee, may I refer you to Section 2, of the Charitable Trusts Act 1860 (*handing the Act to the honourable Member.*) You see the functions conveyed to the Commissioners by that section are considerable and important?—Yes.

2937. Perhaps you will indicate a few of them?—They are the appointment or removal of trustees of any charity; the removal of any schoolmaster or mistress, or other officer thereof, and the transfer payment or vesting of any estate personal or real belonging thereto, or the establishment of any scheme for the administration of such charity.

2938. From whom are those functions transferred?—They were transferred from the Court of Chancery.

2939. Now do you observe that in the summary of that section on the other side these words are used, "certain administrative powers to be exercisable by the Charity Commission"?—Certainly, and I think they are in the main administrative.

Mr. *J. W. Lowther.*

2940. Is not that marginal note put in by the clerks at the table in the House of Commons?—I should think so. All I would like to say with regard to that is this: that I think in the body of my evidence I referred to these special powers, and showed that the Commission welcomed Parliamentary pressure in their work of appointing and changing trustees, which seems to me to stamp it as an administrative rather than as a judicial form of work.

2941. Now, turning to another point, you have had it suggested to you that there have scarcely been proposals before Parliament affecting the Charity Commission. May I call your attention to the Report of the Select Committtee of 1887 on page 13; do not you find at No. 18 a recommendation, and if so, will you kindly read it?—I have seen this recommendation: "The responsibility of the Commission to Parliament should be clearly defined and made complete, and this might be most readily accomplished by carrying into effect the recommendation contained in the report of the Committee on Education, Science, and Art (Administration) 1884, viz.: That a responsible Minister of Education should be appointed, and should be charged with a general supervision of Endowed Schools."

2942. Then in 1884 the Committee made that recommendation, and it was endorsed by a Committee in 1887?—Yes. And I may say further that one of the greatest educational authorities in this country, Mr. Matthew Arnold, kept insisting to the day of his death upon the necessity, in the interest of national education, that this recommendation should be carried out.

2943. Is there anything further you desire to add to your evidence?—No.

Mr. Francis S. Stevenson (a Member of the House); Examined.

Chairman.

2944. You entered Parliament, I think, at the General Election of 1885?—I did.

2945. When were you appointed Parliamentary Commissioner at the Charity Commission?—In April of the present year.

2946. Your experience has not been very long then?—Only a few weeks.

2947. I will put to you this general question, what is the evidence you desire to give to us?—I have attended every board meeting of the Charity Commission since my appointment, and have always looked upon it as part of my duty to examine into particular cases that are brought to my notice by Members of Parliament; and in addition to that I have carried out the other duties of the Parliamentary Commissioner as described by Mr. Lowther and subsequent witnesses.

2948. Have you in the short time that you have been there formed any conclusions that you at all wish to offer to us?—Perhaps I might describe a little more in detail what some of those duties are.

2949. Let me remind you that we have had them given at great length by the previous Parliamentary Commissioners?—I was going to point out that with regard to the questions that are asked, they are of two kinds. There are the questions on the paper, and there are the questions that are asked unofficially; and I think I have had to answer a considerably larger number of inquiries put unofficially and not on the paper than of those which have been put officially, and I consider that the degree of responsibility varies in each case; that answers given publicly and in the House commit the other Commissioners to a greater extent than answers which are given privately.

2950. Is there any further matter that you would like to lay before us?—With regard to the attendance at board meetings the question of the degree to which the Parliamentary Commissioner is able to influence his colleagues has been brought forward; and though of course I have only attended a few board meetings, and cannot therefore go into that question fully, I may say that the influence which the Parliamentary Charity Commissioner is able to exercise owing to the fact that he reflects in some degree the prevailing feeling in Parliament, is as far as it goes rather considerable; but at the same time if questions are brought before the board on which there is a difference of opinion so acute that a vote is taken, his responsibility it seems to me ceases altogether if he should be outvoted and be in a minority. It was stated by one of the previous witnesses that in the case of any acute disagreement the Parliamentary Commissioner had two remedies in his hand: One was to refuse to defend schemes in Parliament, and the other was to offer his resignation. But I may point out that those are not very real remedies; because in the first place to refuse to defend a scheme in Parliament can only apply to schemes under the Endowed Schools Acts, and schemes which come before Parliament under the

Chairman—continued.

Endowed Schools Acts are under the responsibility of the Education Department rather than of the Charity Commissioners; therefore a refusal of the Parliamentary Charity Commissioner to defend a scheme of that kind would not affect either his position or the position of the Charity Commissioners to any considerable extent. And in the second place with regard to the resignation I may point out that under present circumstances the resignation of the Parliamentary Charity Commissioner would not necessarily have the effect of altering the policy of the Commissioners.

2951. I suppose we may take it that you have largely been learning your duties during the few weeks that you have been in office?—Yes; and I may say with regard to this point that on I think only one particular occasion has there been a difference of opinion which has led to a vote being taken; and on that particular occasion I was in the majority, and therefore I am not speaking with regard to the experience of the last few weeks.

2952. Is there any other point that you wish to mention?—One thing has struck me, and that is that under present circumstances the services of the Parliamentary Charity Commissioner are not at present utilised for the purpose of pushing a scheme through Parliament, a scheme I mean of the kind which goes beyond the *cy-près* doctrine. The custom of presenting those schemes to Parliament seems to have fallen into disuse.

Mr. *J. W. Lowther.*

2953. Have you been able to form in your mind any judgment as to how far the work done at the Board is of a judicial or quasi-judicial character or otherwise?—A good deal of the work done at the Board is of a quasi-judicial character; but I should think from what I know of the Local Government Board that it differed only in degree from the quasi-judicial work which is done at the Local Government Board for instance, with regard to surcharges and disallowances, and also with regard to the work which the Local Government Board has to do when it passes Provisional Orders.

Chairman.

2954. I think I omitted to ask you how many Board meetings have you been present at?—I could not mention the exact figure; I have been present at every Board meeting that has taken place since I have been appointed.

2955. How many?—I think I must have been present at about 12 Board meetings.

Mr. *J. W. Lowther.*

2956. Have you had any cases arising with regard to the removal of a schoolmaster or mistress or officer of a charity?—I have no recollection at this moment of a case of that kind having arisen. We have had several cases with regard to the appointment of new trustees, and also

Mr. *J. W. Lowther*—continued.

also with regard to the removal of trustees, but those I take it were more of an administrative character than of a judicial character.

2957. The point that I wanted to put to you was this: in the case of the removal of a schoolmaster or mistress, does not a legal question very often arise as to whether the master or mistress in question has or has not a freehold office; have you had any experience of such cases as that?—No. Perhaps the question of a freehold office of a schoolmaster may be regarded as connected with a question which I answered in the House. I think one of the first questions I answered was a question put by Mr. Roundell as to whether the Charity Commissioners would be disposed to further schemes for enabliug pensions to be granted to assistant masters in schools; and the answer was to the effect, I do not quote the exact words, that the Charity Commissioners would be quite willing to support a scheme of that kind in the event of funds being available, and also in the event of a new vested interest not being created.

2958. Now with regard to the "assurance, transfer, payment, or vesting of any real or personal estate," have you had any cases brought up in which difficult points of law have arisen as to whether or not the estate in question belongs to a particular charity?—There have been cases of that kind; I think there have been two cases within the last few weeks which might be described as coming under that head.

2959. Where you have had to consider whether it was proper to schedule the particular property as being the property of a charity?—There was one case which came before us a few days ago, which perhaps would come under the definition you propose; and that was with regard to a charity in Oxfordshire, in which case there was a board put up in the church showing that a landowner in that particular parish had rather more than 100 years ago taken

Mr. *J. W. Lowther*—continued.

a certain piece of charity land on the understanding that every year he was to pay a certain sum of money in exchange therefor for the benefit of the parishioners; and the question arose in that case as to whether that particular piece of land could in any way be separated from the rest of the property, and whether there was any indication or any document which bore upon the position and the existence of that land at the present time.

2960. You had to consider evidence of title?—Evidence of title, but only to the extent to which evidence of title might be considered, say by any other department under the advice of legal experts.

2961. It was a matter in which, at all events, it was necessary to bring legal knowledge to bear?—It was a matter which involved a legal question rather more than a question of policy, but at the same time it was a question which did not differ from similar questions that might be raised in other departments, and which might be submitted to the consideration of legal experts.

Chairman.

2962. Have you been called to the Bar?—No. I might say, perhaps, that a good deal of the work which has come before us at Board meetings has been connected with inquiries relating to the working of the Local Government Act of 1894, and in most of these cases it has been found that the inquiries were made rather under a misapprehension of what the nature of the Act was; and, therefore, it was resolved by the Board that a circular should be sent out, together with a letter applicable to each case, and that on that circular should be contained the extracts from the Act of 1894 which in any way bore upon the question of charities, in order that the information might be diffused as widely as possible among those who wished to obtain it.

Friday, 8th June 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith Boscawen.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. H. L. W. Lawson.
Mr. James William Lowther.
Sir Stafford Northcote.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

The Right Honourable ARTHUR HERBERT DYKE ACLAND (a Member of the House), Examined.

Chairman.

2963. YOU entered the House of Commons, I think, at the General Election of 1885?—Yes.

2964. And you became Vice President of the Committee of Council on Education, with a seat in the Cabinet, in August 1892?—Yes.

2965. I think you desire to give us evidence of a limited character; perhaps you would kindly indicate within what limits you would wish us to consider that you offer your evidence?—I wish, if permitted by the Committee, to give evidence of a limited character, bearing almost entirely on the actual procedure in the Education Department, after a scheme under the Endowed Schools Act has come over from the Charity Commission, and on the question of the responsibility of Government, or the Minister, in relation to this part of our arrangements for secondary education in England and Wales. I am anxious, for obvious reasons, not to give opinions on matters of policy, or to enter into the details of particular schemes which have been before me, or into technical points generally. I may add that the Permanent Secretary of the Department is, I understand, to follow me, and will answer questions on all matters of detail.

2966. He will give us really a detailed account of the procedure, therefore it is hardly necessary for us to trouble you with respect to that?—Yes, that is so. I assume generally that a considerable measure of responsibility has always been supposed to rest on the Government in these matters, from the time when Mr. Forster introduced his Bill in 1869 until now; and I wish to explain to the Committee, so far as my own experience goes, what the measure and the limits of that responsibility appear to me to be now in practice.

2967. Perhaps you will kindly indicate to us before we reach that, whether you had had any relations with the Charity Commission before your accession to office, or even, perhaps, before you entered Parliament?—I think I may say that in one form or another I have had friendly relations with some members of the Charity Commission for many years. I may almost say that I inherited friendly relations. My father was a

Chairman—continued.

member of the Schools Inquiry Commission, and took very great interest in all matters which affected the work of the Endowed Schools Commissioners first, and then of the Charity Commissioners under the Endowed Schools Acts. Perhaps I may add that since I entered Parliament I became chairman of the Joint Education Committee of the county of Carnarvon, in which I lived, under the Welsh Act of the late Government. At a later stage I also became chairman of the General Conference of the Joint Education Committees of the whole of Wales and Monmouthshire, which had very important functions to deal with, and which has lately presented a scheme for a central board for Wales. Perhaps I may also add that in all this Welsh work I was in the closest relations with the Assistant Commissioner, Mr. William Bruce, who, by his tact and good judgment, certainly did much to lessen any friction that might have arisen, and to bring about a friendly feeling between the Charity Commission and those of us who were connected with the County Committees.

2968. Perhaps, before you pass to the actual relation of the Department to endowed schools schemes, you could give us some little indication of the very great difference which the Committee have already gathered exists between the position of the Minister in relation to an ordinary measure of his Department and his position as to these endowed schools schemes?—Yes, I will try to do so. But, perhaps I may say, first of all, that nothing that I say should be interpreted as offering any opinion for or against further control over the Charity Commission by the Minister of Education or any other Minister, because it is clear that I ought if I can to preserve a neutral attitude, so far as that is possible, on this point.

2969. Quite so; on that, we understand, that you desire to come before us with a mind blank upon the question; you do not desire to go into that?—Well, I think it is obvious that I ought to try not to go into that, that I ought to deal rather with the past and the present than with the future.

2970. Now

Chairman—continued.

2970. Now perhaps you will proceed?—I will now proceed to point out what I conceive to be the difference between the position of the Minister when he is dealing with an ordinary Government measure in his department, and when he is dealing with a scheme under the Endowed Schools Acts. In the case of an ordinary Government measure a Minister makes, as is well known, in concert with the heads of his Department, such confidential inquiries in the first instance as he thinks right from any quarter; he holds interviews, he receives deputations, and, if he thinks fit, he then drafts and re-drafts, if necessary, his Bill in concert with officials in his own Department, and also probably with the Government draftsman. After all the confidential stages which such a measure goes through he submits it to either House of Parliament, with the approval of the Cabinet.

2971. That is to say as a distinct Parliamentary Act of the Government of the day?—Yes, that is so. Now if I take the other case, in the case of a scheme under the Endowed Schools Acts, the origination of it does not lie with the Minister at all; he cannot settle whether a scheme shall be opened out or whether no scheme shall be opened out; that lies with the Commissioner to whose district the case belongs.

Sir *Stafford Northcote.*

2972. Might I ask a question as to the term "opened out"; does that mean undertaken at all?—Perhaps "initiated" would be the best word.

Chairman.

2973. The origin lies entirely outside the Department of the Minister?—That is what I intended to say.

2974. He has neither cognisance nor control of such origin?—That is what I intended to say. Then the private inquiries which are made, or the public inquiries which are made, are carried out under the authority of that Commissioner or of the Commissioners as a whole; and generally all further stages up to the time when the schemes come to the Education Department, stages which may involve the practical settlement of many delicate matters in one way or another, often by way of compromise or arrangement, are carried through in accordance with the Act and the present practice, without any knowledge whatever on the part of the Minister.

2975. Now you have arrived at the point at which it reaches the Education Department, have you not?—Yes, that is so; and when the scheme comes to the Education Department, the Minister must practically accept much that has been done without any real responsibility for it, unless he is prepared to go to the extreme length of disapproving the scheme altogether.

2976. Now had the knowledge of that any influence on your mind in respect to your position with regard to the Charity Commission?—Well, I ought to say that when the present Government came into office I hesitated for some time as to whether it might not be for some reasons desirable that I should suggest, notwithstanding many adverse arguments, that I should become the Fourth Commissioner myself. I was aware, to some extent, and I became more fully aware when I discussed the matter with the Chief Commissioner and others, that there were great disadvantages in such a course. There was the disadvantage of the Minister being possibly from time to time out-voted, as all Fourth Commissioners I suppose must expect to be; and there was the awkwardness of his position at the later stage when the scheme itself was sent to the Education Department of which he was the head.

Chairman—continued.

2977. Those were the disadvantages?—Those were the disadvantages.

2978. Now, with regard to the other side, what weighed with you on the other side?—In considering the matter I felt the enormous, the almost overwhelming, disadvantage of being considered responsible in some sense, and yet having no acquaintance whatever with the schemes when they were in the earlier stages of settlement. You are aware, of course, of what actually happened, that I realised that on the whole the disadvantages of the latter course were overbalanced by the advantages of the course which the Government actually took. I may add that I willingly admit the readiness of the Commissioners to give the Education Department at a later stage information as to the reasons, or many of the reasons, which had led to their conclusions; but by that time, the scheme having come over to my department, is in many of its essential parts practically complete.

2979. I suppose you felt in anticipation what was strengthened by experience that the Vice President of the Council, under the present order of things, has to give his fiat and sanction to matters on which he has been previously somewhat imperfectly informed?—Yes; I think he must give that fiat or sanction, unless he is to take, as I said, the extreme length of possibly taking a course which may overthrow the scheme.

2980. Therefore, to that extent, the two things which ought always to go together, namely, power and responsibility, do not?—Well, it appears to me that what seemed to be the idea of Mr. Forster has for various reasons, which I may perhaps allude to later, if you will allow me, not really been carried out. I do not attribute any blame to anybody in that matter.

2981. Now perhaps you would pass to such an account of the procedure as affects the Vice President. As you have already indicated, we are going to have the evidence of the Permanent Secretary afterwards, who will go very fully into that matter?—Yes, I will try to give just a brief account which will be sufficient, I think, for my purpose. I ought to say, first, that these schemes, when approved, have been signed sometimes by the Lord President, sometimes by the Vice President, and sometimes by both.

2982. In your own case, in the case of the present Government, how has that been?—In my own case, as you know, the Lord President does not occupy a paid office, and when I came into office the Lord President was Secretary of State for India, and since that time the Lord President is also Prime Minister, and, therefore, practically the Vice President, with a seat in the Cabinet, is at the head of the Education Department;

Chairman—continued.

and in my case, therefore, these schemes have been signed only by the Vice President.

2983. The first Lord President was, I think, Lord Kimberley, then Secretary of State for India; the present Lord President is Lord Rosebery, the Prime Minister?—That is so.

2984. Then, perhaps, you would now give us somewhat formally an account of the procedure to the limited extent you have indicated?—Yes. As soon as a scheme has been submitted by the Charity Commissioners, the Education Department are required to publish and circulate it, stating that during one month after the first publication they will receive any objections or suggestions made to them in writing respecting it. During that month you may say that no responsibility lies, because that is the first stage; except, perhaps, I ought to say that, even during that stage, the Vice President has to answer questions in the House of Commons in relation to the scheme, and not the Fourth Commissioner. Then after the expiration of the month the Department has three courses open to it. It may either first disapprove the scheme; or, secondly, approve the scheme in the exact form submitted; or, thirdly, remit the scheme to the Commissioners with such declaration as the nature of the case seems to the Department to require. If the third course, namely, remitting the scheme with a declaration has been adopted, the Commissioners then decide for themselves whether they will submit such amendments to the scheme as will bring it into conformity with the declaration of the Department, or whether they will refuse to do this, in which case they must prepare another scheme altogether. Now in the case where no objections or suggestions have been received during the month, it has been, as I understand, the usual practice of the Department, though this is not necessary by law, to approve the scheme forthwith. On the other hand, where objections have been received, it has been the usual practice of the Department to communicate confidentially with the Charity Commissioners, ascertain their views on the points at issue, and then enter into negotiations with the parties interested. When this happens the Department becomes, for the time being, an intermediary between the Commissioners and the various opponents of the scheme. In many cases the negotiations which I have spoken of have resulted in a compromise as to the matters in dispute, in accordance with which, or, as the result of which, the scheme has passed into law; but as a rule, although the stage of confidential communication is a purely informal matter, it has been usual in these cases to arrive at an understanding, also quite informal, with the Commissioners as to the character of the amendments which we propose, and which they practically informally undertake to accept. Of course they have, as I have explained, perfect liberty to refuse to amend the scheme in accordance with our declaration, and the Department have no power over them whatever in this matter. Now I will just say briefly what the later stages are. As soon as the scheme has been approved by the Department, it must be published and circulated for two months with a statement that it will be approved by the Queen in Council

Chairman—continued.

without being laid before Parliament, unless a petition is presented to the Queen in Council against the scheme (and that carries you to the question of the Judicial Committee, which I would rather leave out of my evidence altogether); or a petition presented to the Education Department, asking that the scheme should be laid before Parliament. If no petition is presented, then the scheme must be transmitted to the Privy Council Office by the Education Department for submission to the Queen at the next meeting of the Council, and for her approval. If the scheme goes before Parliament and comes out without any alteration, the scheme is transmitted to the Privy Council in the same way. If the scheme should be killed in Parliament by an address, of course there is an end of the matter; but if a clause or clauses are withdrawn from the scheme in accordance with an address in either House, then that which remains of the scheme is sent to the Privy Council Office for Her Majesty's approval in Council. And lastly, on being once approved by the Queen in Council, the scheme comes into operation, and has the force of an Act of Parliament.

2985. That completes what you wish to say, so far as the procedure is concerned under that head?—Yes.

2986. Then turning, if you please, to the three courses that are open, will you kindly say what you desire, under the head of disapproval?—The question of disapproval is really a very difficult matter. I think it is sometimes said that the Minister has full power and responsibility in relation to the scheme, because he can put a veto upon it. That, of course, is so in a certain sense from the point of view of the law; but from the practical point of view, which after all is the real matter, I do not think that the head of the Education Department can take that course, except extremely rarely. If he should find that a scheme has been attacked on many sides, while it was with the Charity Commission, and that it is being attacked by objections or suggestions during the first month, when under his own Department, he might in a very rare case say that the best course was to disapprove the scheme or do what is called "hang it up," which comes to very nearly the same thing. But I venture to say that in nine cases out of 10 he cannot do anything of the sort. The scheme has been under consideration for months, or perhaps for years, between the Charity Commissioners and the locality; their expectations have been raised as to what is likely to happen by the course which the Commissioners have taken; and he certainly would be acting out of accord with the reasonable demands of public opinion if he did not try to put forward in some way or another the greater number of these schemes. So that I consider that this first course of possible disapproval does not really put much responsibility or power into the hands of the Minister.

2987. I gather that you wish us to feel that in your opinion it looms much larger in theory than it works out in practice?—Certainly.

2988. Now perhaps you would kindly pass to the second course, namely, approval without change?—When we come to the stage of approval

Chairman—continued.

approval without change, which has been a very common practice, when there have been no objections——

2989. May I interpose there: is it an obligatory practice if there is no objection?—No, not an obligatory practice at all. When we come to that stage there are considerable difficulties in meddling with the scheme at all. The easiest course, certainly, is to approve it. If the Minister approves it he acts in what I may call a ministerial capacity. By that I do not mean in his capacity as a Minister of the Crown.

2990. Or especially as a Cabinet Minister?—Or especially as a Cabinet Minister; but rather, using the word in another sense altogether, as the minister of the Charity Commission. I use the word "ministerial" in that sense as implying acting in the capacity of a servant.

2991. Someone who performs functions which are already initiated?—In this sense that the scheme has come over, that it has not been objected to by anyone in the locality, that the Minister has had nothing to do with it up to that point, and that for a variety of reasons he does not think it desirable to interpolate his own particular views, and therefore he simply approves it.

2992. Is that all you desire to say on the second head, approval as it stands?—Yes, I think so.

2993. And now would you pass please to what perhaps is the larger matter; remission, and the various kinds of remission?—Under the stage of remission, there appear to be two courses open to the Minister; the practice has been what I have tried to describe, but there are two courses open: the first possible course is to remit the scheme even if there be no objections at all from the locality or elsewhere, with directions which may be supposed to arrive from the Education Department itself.

2994. Initiatory on the part of the Education Department?—Initiated by the Education Department and with a view to improving the scheme. There are considerable difficulties in that course. The Minister of Education, who is supposed to be responsible to Parliament for all these secondary education schemes, may be supposed by some people when he writes the words "I approve" to approve of all the several clauses of the scheme in detail, and to indicate in such a scheme all the ideas which his department may have on the subject of secondary education, but I think there is great difficulty in that. If you will allow me I will take an instance from my own experience in connection with the Carnarvon County scheme of which I spoke.

Mr. *J. W. Lowther.*

2995. This is not under the Endowed Schools Acts procedure?—No, the Welsh Intermediate Education Acts.

2996. Under a different procedure altogether?—It is largely the same procedure. I was not going to allude to the Act. In the case of Carnarvon there was no rival scheme from the Committee; the scheme was the scheme of the Charity Commissioners. It was laid before the two

Mr *J. W. Lowther*—continued.

Houses, but it passed through the ordeal without any change whatever.

2997. Do you mean the Committee of Council?—No; perhaps I ought to give an explanation.

Chairman.

2998. I understand that you are speaking now by way of illustration?—I am doing so.

2999. Of a case which arose when you were chairman of the Joint Committee of Carnarvon, under the Welsh Intermediate Education Act?—That is so.

3000. May we take the word "Committee" to mean that Joint Committee?—Yes; that was a Joint Committee of five persons, three appointed by the County Council and two appointed by the Government of the day, by the Lord President.

3001. You are passing now from action on your part as a Minister to your action as a member of the Joint Committee outside Parliament altogether, as an illustrative incident?—Yes.

3002. Before you were Vice-President of course?—Yes.

Mr. *J. W. Lowther.*

3003. I thought you were speaking of what you did as Minister?—I think I did not make it quite clear as I ought to have done that that was not the case. The Joint Committee of Carnarvon thought that under all the circumstances the head master of the schools which we were founding in the county should not appoint and dismiss without restriction his assistant masters. That has been the traditional view of the Charity Commission based I think upon the Report of the Schools Inquiry Commission; but we thought that it was desirable that the Local Governing body should be directly associated with the head master in this duty. Of course there are two methods of appointing assistant masters; that which is adopted by all the managers of the great and small elementary schools in this country, and which is adopted in other places as well, where the managers appoint; and there is the other practice of the older public schools in this country, where the head master is quite independent. Now, the Charity Commissioners gave way on this point in a perfectly friendly way, and accepted our suggestion, and made it part of their scheme that the head master should not be independent in this matter.

Chairman.

3004. That now forms part of the Carnarvonshire scheme?—That now forms part of the Carnarvonshire scheme. But I now recur to my time in office as the Vice President.

3005. Your procedure as a Minister you mean?—Yes. Since I have been a Minister I have received several schemes, certainly two or three I think, connected with the case of small grammar schools, something like those which we were founding in Carnarvonshire, with the traditional clause giving the head master full and complete powers of appointment and dismissals. Now with the views which I hold educationally on that matter, that the Carnarvon method, if I

Chairman—continued.

may call it so, is most suitable for the smaller secondary schools, some persons might have expected that I should have desired to alter these schemes and remit them to the Commissioners with a declaration on this point. But I did not do so; I followed the ordinary policy, and I approved the schemes. I think that if I had remitted the schemes for alteration in this respect, I might very likely have gone on in other schemes or in these schemes to suggestions about fees, about the age of scholars, about arrangements for scholarships, and other matters, till the scheme was, as I had suggested it should be, largely changed. Now that would really produce a very great difficulty. Very possibly the Charity Commissioners would refuse to accept these proposals; and then the scheme would have to begin all over again. I am not sure whether the customary policy is wrong or right; it may be that I or some of my successors may take a different course; but in any case I think I have illustrated that this matter of remitting with a declaration, in accordance with the educational views of the Department or the Minister, is a somewhat difficult task.

3006. Will you now pass to the case of schemes where objections have been made, and where remission has been made by the Education Department?—It has been customary, as I said, where objections have been made, as far as I know, to send over all the objections together to the Charity Commission for their comments; now there is considerable advantage in this, inasmuch as we know nothing about any of the earlier stages, but there is something to be said for the Minister trying to keep free from some of the earlier contentions in these matters, and taking the responsibility upon himself of deciding what he should remit to the Charity Commission if he is really to act as a responsible Minister. But there are great difficulties of course in this. I have heard, I only speak of it as a matter of tradition, and I do not wish to have these words of mine in any formal way pressed upon me, but I have heard that difficulties as between the two bodies, difficulties inherent in the practice and partly in the law, have at times led almost to something of this sort, that the objections would be remitted, and it would be rather hoped that advice might be received from the Charity Commission almost to this effect: that if the objections which the Education Department received were new, it would perhaps be better not to go into them, and that if they were old they had been considered already. I do not mean to say, of course, that any letter was ever written to that effect, but I mean that the difficulties at this stage are so considerable that very naturally it has been thought desirable as far as possible to minimise them. The Department may have very good advice up to a certain point, and has such advice, but the fact remains that they are wholly ignorant of all the earlier operations which have taken place with regard to the scheme.

3007. May we take it that you have felt for some time that your Department has been groping in the dark as it were?—Absolutely groping in the dark, unless there was this quite informal stage, not in accordance with the Act,

Chairman—continued.

this informal confidential stage of communicating with one another.

3008. Might I ask you a little more particularly what you really mean by the phrase "informal and confidential"?—I mean by informal that there is nothing whatever which need make the Education Department enter into communications at all with the Charity Commission before remitting with a declaration; and then the Charity Commission must either accept or practically reject.

3009. Are these communications mainly verbal or are they in writing?—In my time they certainly have been frequently written. I think, perhaps, Mr. Kekewich will tell you what has happened before, but of course they are verbal also; I ought to say that they are both verbal and written also. There is friendly intercourse between the officers of both Departments.

3010. But they are in no sense required by the formal procedure arising out of the Acts of Parliament; they are in no sense statutory?—Not the least.

3011. And they are wholly informal and confidential?—Yes.

3012. Then do any difficulties apply to schemes, whether the communications have or have not taken place?—Yes; what I may call the fundamental difficulty, which I have not yet described, lies behind both cases whether there have been objections and the Education Department remits, or whether there have been no objections and the Education Department remits. That difficulty arises from the fact that the Commission by law may practically, as I have said, refuse to accept the amendments suggested by the Education Department, and then there is nothing for it but that the scheme should begin what is sometimes its weary course all over again.

3013. In a sense, then, that would almost imply that the Charity Commission are the masters of the Education Department?—Well, if you compare the position of the Minister in relation to his other work with that, I think it is. If the Minister has a Bill in the House of Commons he is able, with the approval of his colleagues, to decide what that Bill shall be; or if he lays a day or evening code upon the table there, he proposes amendments to these codes with a clear and full responsibility of his own; but in relation to the schemes he has to carry constantly in his mind, that so far from he himself or the Department being masters the Charity Commissioners may become at this stage his masters, and he must very carefully limit what recommendations he makes to the Charity Commission from that point of view.

3014. And to a certain extent go even further, I suppose, and ascertain in these informal and confidential communications that his recommendations will have the assent of the Charity Commissioners?—Yes, in the confidential and informal stage he may be there also, if he wishes the scheme to pass, equally subject to the Commissioners.

3015. In other language, the Education Department has to go to the Charity Commissioners and say, "What is the maximum of my wishes that

Chairman—continued.

that you will accept, or drop the scheme?—Yes, I think that is a very fair description. What is the maximum that you will accept if the scheme is to pass?

3016. And, of course, dropping the scheme, as I understand, sometimes destroys the labour of months?—Certainly; and I think the Minister must hesitate, and ought to hesitate, except in a very extreme case, to take a course which would kill the scheme.

3017. Then the responsibility and power of the Minister, according to this view of things, is surely extremely limited, and fettered?—Well, I confess that I feel this constantly when I write the words "I approve" after a scheme. I think that a great deal of the work which the Charity Commissioners expend on these schemes is very good work done, and that there are probably many things which result from their great experience in schemes which are sound and good; but at the same time I feel when I write "I approve," I write it in a sense which does not always make me feel thoroughly comfortable.

3018. Would you go so far as to say that, from your experience, the Vice President of the Committee of Council, now with a seat in the Cabinet, is in a peculiarly embarrassed position with regard to this approval of endowed schools schemes?—Well, if the idea is, as I believe the popular idea is, that the Vice President in the House of Commons and the Lord President in the House of Lords are fully responsible for these schemes when they come before Parliament, or if they do not come before Parliament, I must say that I think the present practice and course of action under the Acts of Parliament is very embarrassing, or likely to be embarrassing.

3019. At all events, I rather gather that you wish to put before us, that in this part of the functions which he has to discharge the Vice President of the Committee of Council stands in a wholly exceptional position?—Yes, as far as his own work is concerned, that is certainly the case. Either in connection with the Education Department at Whitehall, or in connection with the Science and Art Department at South Kensington, I feel that after careful communication with the heads of both offices, I arrive at conclusions every week, and almost every day, for which I am fully responsible after seeking their advice, and for which I am quite prepared to be responsible; but I do not feel in the same position at all in relation to these schemes, although I do not deny that because I do not wish to kill schemes, or to disapprove schemes, that I accept responsibility.

3020. May I refer you to Question 792 in Mr. Richmond's evidence, and Question 1271 also. In answer to Question 792, Mr. Richmond gives us a quotation at considerable length from Mr. Forster's speech, he then being Vice President of the Council, in moving the Second Reading of the Endowed Schools Bill of 1869; and in answer to Question 1271, he gave us some words of Mr. Bruce, who was then in office, on the same subject; would you mind referring to those passages?—I have seen that in Mr. Richmond's evidence.

3021. You see the idea of Mr. Forster and Mr. Bruce in respect to the Endowed Schools Act, 1869; do you think that the actual working out has been what they contemplated?—I see that Mr. Forster, speaking of the means of procedure said: "It is the Government of the day working by special help. The Commissioners as described in the Bill, who are to propose the reforms, are merely officers assisting the Government"; and I see that Mr. Bruce said that "these Commissioners were but the creatures of Government of the day, who would be responsible to Parliament for their proceedings; and that, he thought, would be sufficient to prevent any abuse of their powers."

3022. Will you say whether you think that that anticipation has been realised?—No, I think that various causes, which do not attribute blame to anybody, have led to a state of things which is very different from what Mr. Forster contemplated.

3023. Do you think that those difficulties on which you have been dwelling in your evidence are likely to increase?—I think that if we are likely, as I may privately say I hope we are, to develop and improve our organisation of secondary education, these difficulties which I have described will certainly increase the difficulties from the point of view of Ministerial responsibility, in proportion as the public become more interested in the work, and as the Ministers of the present or the future become more interested in the work themselves.

3024. Is not this position of the Charity Commission in relation to the Department over which you preside of a wholly exceptional nature in the Government of the country?—Well, I know that matter has been raised several times in evidence; and without taking the case of certain other bodies which have a quasi-independence, I would say that I think among the bodies who are specially occupied with work very interesting to the country, and in which the House of Commons certainly takes a great interest, the position has been very exceptional.

3025. Is it not somewhat similar to the position of the first administration of the Poor Law?—Some quotation was made the other day from the very valuable work of Mr. Bagehot on the English Constitution, the best book, I suppose, which has been written describing the Constitution as it is at the present time; and I remember that he speaks there of the three kings of Somerset House as they were called, the new Poor Law Commissioners, who at that time were I think not allied to any Government chief; and he speaks, purely from the constitutional point of view, of them as being left to their intrinsic weakness, he holding the doctrine from the point of view of our Constitution that it was of the highest importance to ally a body of that sort with a responsible Minister.

3026. Do you wish to add anything from any opinions expressed by responsible Ministers in the House of Commons with respect to the matters to which we have been immediately referring?—I thought that I would like to quote the words from Mr. Forster's remarks in the House of Commons when he was dealing with his

Chairman—continued.

his Bill of 1873 which amended his Bill of 1869.

3027. That Bill of 1873 arose out of the Report of the Committee of that year?—Yes, I believe so. Some Member of the House of Commons had said that the two Endowed Schools Commissioners and himself would be a kind of triumvirate; and Mr. Forster said: "his honourable friend had said that this clause would give to that triumvirate powers which had been given to no Department of the State. It did no such thing; the power given by the original Act was vested in the Government, and the Commissioners were only the machinery made use of in framing the schemes;" and then a little later: "undoubtedly the Bill left the Government absolutely responsible for these schemes, and it was an entire delusion to say that the matter was left to an irresponsible triumvirate."

3028. Do you think the result has worked out according to that confident statement of Mr. Forster's?—Of course if it had remained like that I should have been a member of the triumvirate with two Endowed Schools Commissioners constantly in touch with me.

3029. One of the three kings at Whitehall, to use Mr. Bagehot's phrase?—That was the idea, at any rate, of the critic of Mr. Forster's Bill; and I need not say that, though from time to time I may see a Commissioner in connection with a scheme before me, a very different state of things has arisen altogether for a long time; I do not mean in my own time only.

3030. In fact in the 21 years that have elapsed since then, for some reason or other (to which we will come later on), the situation has very much changed?—Very much changed, I think.

3031. Now, unless you have anything you desire to add further to your evidence at this point, you are aware that either House of Parliament has the power to remove, that is to say to omit, any portion from a scheme; will you give us what the effect of that power is, and must be, on the mind of a Minister in your position?—On the question of the effect of the action of either House of Parliament upon the scheme, I understand that the law gives no guidance, but that the doctrine which is held by the Charity Commissioners is that if part of a scheme has once been removed by either House, that part which has been removed must not for all future time be reinserted in any future scheme. I speak rather tentatively about this, because I am not sure whether that is the exact doctrine; but I think it approaches very nearly to that. At any rate when I am considering the approval of any scheme I have that idea in my mind, and it certainly very largely affects the attitude of the Department in any proposals which it may make. For instance, if I may say so, a Minister preparing a Government Bill or laying a Code on the table, must be well aware that he may have to find some of his clauses rejected, or to withdraw a part of his Code in deference to the opinion of the House, but he does not for a moment think, nor does the Department with which he is connected think, that such clauses or such proposals in the Code may not be re-inserted in the next year or the year after, if public opinion is more favourable, or more ripe for their reception. On

Chairman – continued.

the other hand, if he remitted for approval by the Commissioners some clause which seemed to him to be highly desirable, I am specially speaking of a wholly educational matter, not of any contentious matters, it is possible that such a clause might for some reason or another be struck out, and then he would be in the unfortunate position of feeling that he had been premature, and that such a clause could, as far as he knew, not be proposed again in a future scheme.

3032. Then this doctrine, to use the expression, "once condemned always condemned," must stand in the most vital relation to the matter in the mind of a Minister?—It appears to me that it must do so. I think, if I may take another illustration from the Carnarvonshire scheme, that supposing through neglect or through want of earlier attention we had left this clause about the appointment of assistant masters in the scheme until the Parliamentary stage (for that scheme was remitted to Parliament), I might have been able, as an un-official member, with the joint committee of which I was chairman at my back, to persuade the House of Commons to remove that clause. As I understood it, the result of that would have been that the traditional clause of the Charity Commission which puts the appointment of assistant masters absolutely into the hands of the head master, and which I think may be very desirable in the case of the larger public schools, could never have been inserted in any scheme again.

3033. In fact, that such a decision in a matter of that kind, whether by the House of Lords or the House of Commons, would have possessed the force of an Act of Parliament or a judicial decision, that nothing contrary to that should ever take place in the future?—I do not know whether I exaggerate the doctrine, and I speak with diffidence about it, and I am trying only to speak of it as it affects my own mind, but in that case I will assume that the House of Lords had tacitly approved the original and traditional clause by taking no objection to it, and then one House would have approved the original clause, and the other House, that is the House of Commons, would have disapproved the original clause; and if it was held that that clause could never be put into a scheme again, I think it would be a great misfortune; and certainly the feeling that there is that doctrine, whether rightly or wrongly (I say nothing as to that), affects my mind at present.

3034. At any rate, we may take it from you that you have no doubt, from your experience, that such a doctrine exists?—No doubt at all.

3035. Is there anything further that you desire to say on that?—Nothing further than this: that I think such a doctrine leads or may lead to considerable timidity in dealing with schemes; because, after all, all public opinion in educational matters is, and certainly has been during the last 25 years, very progressive, and some proposal which was refused one year might easily be introduced into a scheme in five years time. It also leads to a certain cast-iron way of dealing with educational endowments, because a clause which might be good for a small school and not good for a large school, if removed in the one case, as I understand it, could not be inserted in the other.

Mr. *Lawson.*

3036. Could not be inserted in any future scheme?—According to the doctrine, as I understand it, could not be.

Chairman.

3037. Passing to another point, may we gather from your evidence that the gulf which, you have shown us, exist between these two Public Departments, the Education Department and the Charity Commission, has been a widening one since Mr. Forster's time?—Yes, I think it has; but, as I have very carefully said, not through the fault of anybody.

3038. I was about to say: of course, we are now viewing this matter wholly apart from persons?—Yes.

3039. Purely as a constitutional system?—That I understand.

3040. That is to be taken as quite understood. Could you give us from that point of view, wholly apart from persons, anything that you have in your mind as to the causes for it, the reasons for that gradually widening gulf?—I speak with some hesitation about past history which I do not myself remember, but it appears to me that the present result must have been brought about gradually, and that there are some reasons for it which are fairly obvious. After the Act of 1869, I know as a fact, because one of the Commissioners has been good enough to tell me about it, that the two Endowed Schools Commissioners, and other officials connected with them were one or other of them in very frequent touch with Mr. Forster, the Vice-President of the day; and of course you understand that at that time there could be no Parliamentary representative on that Commission; therefore he was the only person connected with Parliament in relation with it, and therefore he was pretty free to ask the Endowed Schools Commissioners what they were doing in what one may call the initial stages; and there was a great deal more constant intercourse between what at a later stage somebody called the Triumvirate than is possible at the present time. Then in 1873 came this modification of the law, which was perfectly well intended, about the objections and suggestions being remitted to the Commission, which has turned out to be one of very considerable difficulty.

3041. We shall have that more particularly described I think by Mr. Kekewich?—Certainly; I do not wish to go into any detail on that subject, but I only meant that an amendment which was applicable to that particular state of things has turned out to be a difficulty later on.

3042. And has had consequences not then foreseen?—I should think they could hardly have been foreseen. Then in the year 1874 (and you will understand that I am not in the least criticising the policy of the Government of the day in merging the Endowed Schools Commission in the Charity Commission) it seems to me that this took place: that the Vice-President was more or less necessarily warned off his previous contact with the Endowed Schools Commissioners, who were then merged in the Charity Commission. What I mean by that is this: that it was actually promised I believe to the House of Commons in 1874 that the Vice-President of

Chairman—continued.

that day would not sit as Fourth Commissioner of the Charity Commission, which had then absorbed the Endowed Schools Commissioners; and from that time to this I believe he never has sat as Fourth Commissioner.

3043. Do you know why it was promised—on what ground?—The objection was raised in the House very naturally; "the Vice-President is going to sit as Fourth Commissioner to deal with these schemes in their various stages up to the time of reaching the Education Department, and then he is going to the Education Department to sit as a judge on the very schemes in which he has taken part;" and I think it was in answer to an objection of that sort that this pledge for the particular Vice-President of the time was made. (The whole question of the Vice-President and the later views as to a Fourth Commissioner is, as I dare say you know, treated in the 35th Report of the Charity Commissioners in 1888.) What happened after that was that from 1874 to 1888 the Vice-President abandoned all participation in and all responsibility for, the proceedings of the Charity Commission; and yet he was supposed to be their representative in the House of Commons, and to possess (to use the words of the Charity Commissioners' own Report) "a knowledge of our proceedings which he has not in fact possessed."

3044. Then as the years went by what I have described as the "gulf" gradually widened?—Yes; and when the policy was taken up of appointing a Fourth Commissioner who was in the first two cases and is in the present case not a member of the Government, and who in any case would certainly not be the Vice-President. Of course, you may say that the widening was more or less stereotyped, perhaps for good reasons. Obviously when the Government of the day has a Fourth Commissioner sitting on the Board who acquires most valuable information which he is able to impart to the House, it is still less possible for a member of the Government to in any way interfere with his very valuable functions by himself making inquiries into the work of the Charity Commissioner before schemes come to his Department.

3045. In fact to that extent the half-way house blocks the road?—Well, to that extent.

3046. Is there anything further you would desire to add as to that part of your evidence?—I suppose there have been times since 1874 when, partly in view of the unfortunate unpopularity which attached to some of the acts of the Endowed Schools Commissioners, I would hardly say to their acts, but to some of the schemes which they prepared, and to some of those prepared by the Charity Commission, there was a perhaps not unnatural reluctance on the part of the Education Department to mix itself too much up with the proceedings of the Charity Commission. I think it is much to be regretted. I think much of the unpopularity which is attached to the Charity Commissioners has been largely undeserved, and I myself have had the pleasure on more than one occasion of using words to that effect in the House of Commons itself; but I do not deny that a body sitting independently as they do, is the kind of body to which Mr. Bagehot alluded in the words which I

Chairman—continued.

referred to, one which is not backed even by the ordinary body of members of the House of Commons which supports a minister of the day, but is liable to be criticised on all sides and from every side; and I certainly think that its educational work has seriously suffered in consequence.

3047. Now passing to another point, if you please, what is the responsibility of the Education Department in respect to the Estimate for the Charity Commission; has it any?—I have watched the Charity Commission Vote pass through the House of Commons on different occasions, and I confess I think it is rather difficult to define. If it was not that all governments in succession are very anxious to get their estimates through, possibly more difficulties might have arisen than have arisen on this point. The Fourth Commissioner, as he has existed since 1888, does his best to give information. He cannot always be held bound, I suppose, to support a scheme against which he may perhaps have voted himself; but he certainly can give, and does give, very valuable explanations, and in many matters, no doubt, he feels himself thoroughly at liberty to defend the action of the Commissioners. At the same time he is not a responsible Minister, and therefore there must be something behind him. Practically I understand that there is no doubt that the Treasury are responsible, and that the Secretary to the Treasury, or the Chancellor of the Exchequer, or possibly the First Lord of the Treasury, if he holds a seat in the House of Commons, may be called upon to defend a Vote on matters of which of course they are as a rule not very perfectly informed.

3048. That is what I wanted to get from you, if you please: do you consider that the defence or the conduct of the Estimates for the Charity Commission lies with the Secretary to the Treasury rather than the Vice-President of the Committee of Council?—Yes, I have no doubt about that. I may say that if I were called upon to defend a particular scheme which I had approved, though, as I have told you, my approval is often subject to many qualifications, of course I should naturally do my best to do so.

3049. May I take it that it would be possible for the Vice-President to find himself in the unpleasant position of having to defend Estimates for a department whose policy he disapproved of?—Well, of course the Vice-President, if he were responsible for the Estimates, might certainly find himself occasionally called upon to defend a policy which he did not altogether agree with.

3050. Speaking in the abstract, again, and without reference to persons, do you consider that this might arise possibly, that the Vice-President would say, No, I must decline?—The great difference between that position and that of a Minister responsible for his own Department is this: When he defends his own Department, of course he may have to defend a policy which is not an ideal policy always, because there must be give and take in all these things, even in his own Department; but if he were, as he is not, responsible for the Charity Commissioners, he would be defending a policy which he had not himself originated, and was not himself in any true sense of the word, in many cases, responsible for at all.

Chairman—continued.

3051. Here, again, may I take it that this particular body stands in a wholly exceptional position as regards the Government of the day?—It stands in a very exceptional position, I think.

3052. Referring to the evidence, have you noticed what fell from the Chief Commissioner with respect to the Charity Commission not having momentum to secure the passage of the Estimates through the House of Commons?—Yes; I think I noticed those words.

3053. Passing now, if you please, to the important matter of inspection of schools, do you desire to say anything to us on that subject?—I should like if I may, though perhaps it lies a little outside the general scope of the evidence that I wanted to give, to say from the educational point of view that I much regret that the Charity Commissioners have not had more opportunity of following up what has been done under schemes by inspecting in a general way the work which has been done in the schools which have had new schemes. I consider that such work, if adequate means had been supplied and really effective inspectors could have been provided for the Commission, would have been of the highest possible value. Perhaps I may just give one instance to show once more how strong the feeling towards the Charity Commission of myself and some of my friends has been, by an illustration again taken from the case of Wales. The Joint Committees for the whole of Wales and Monmouthshire had a Central Conference, as there were monies available for the whole of Wales, and as the different counties of Wales and Monmouth were willing to contribute to a common fund with a view of carrying out inspection and other general purposes which would be valuable for all the schools formed under these Acts. Their desire was that the Department responsible to the Treasury for inspection in connection with a certain sum which the Treasury contributes under the Welsh Act to intermediate education should be the Charity Commissioners. The Treasury drew up the proposals, and the proposals when they came down to this Conference of ours contained the Education Department, over which I now preside, as the authority on this subject. The results of the inspection of this central Board were to be reported to the Education Department, and the Education Department, after such inspection or inquiry, as they thought right, were to report to the Treasury. Well, we felt at that time, partly that we were very much indebted to the excellent way in which the Assistant Commissioner, Mr. Bruce, had done his work; partly that after all the trouble which the Charity Commissioners had been put to with us, it seemed a little hard upon them to deprive them of a place in the future work, and we thought on the whole that the Charity Commission was a desirable body for this purpose.

3054. Again, you are speaking not as a Minister in any sense, but in your pre-ministerial capacity?—Yes, quite so. And we communicated (I took a considerable part in it) with Mr. Goschen on the subject. He listened to our representations, and the result of it was that the

Chairman—continued.

the Education Department was struck out, and the Charity Commission inserted; and they are now the body who will examine the results of whatever inspection may be done by the Central Board, and will report to the Treasury on the subject.

3055. Is it a fair question to ask you whether, with your present experience, you would still pursue the same course as you did then, could you be transplanted into the same position?—What I should feel now, after my experience of being the chief of two other departments, would be that if it had been possible it would be most desirable that some combination of the three departments, the Education Department, the Science and Art Department, and the Charity Commission, some Committee jointly representing them all, if I may say so, should have to deal with this matter. I may say that since I became Vice President I have, in a sort of informal manner, arranged a Departmental Committee which should sit from time to time representing all these three bodies; three members of it from the Charity Commission, three I think from the Science and Art Department, and two, if I remember right, from the Education Department at Whitehall; and I may say, with the full assent I am sure of all those who sit at that Committee, that it has been of the highest possible value in giving information to each department of what the other departments were engaged in, and members of the Committee have again and again said to me how very valuable such a Committee was. Now, if for this purpose such a Committee were in existence with full powers, I think it would be the ideal kind of body to do the sort of work I suggest. The Science and Art Department contributes a good deal of the knowledge of the work which is being done by the County Councils, and has a certain amount of authority in reference to that work; the Education Department has certainly the most experienced body of inspectors, who know what inspection is and ought to be, and have a certain amount of connection in the secondary work in the training colleges and elsewhere; and the Charity Commission themselves have the experience of the schemes and all the various stages through which the schemes have passed.

3056. On this point of inspection of schools we clearly gather that you would like to see some system by which that should be more effectually done?—I think it is most desirable. I think that a good many governing bodies and head masters would highly welcome some efficient inspector coming from an educational centre to consult them as to how far their scheme is being carried out, and to report fully to the central body, who in their turn might produce, if it were effectively and fully done, most valuable reports on secondary education, which would be of very considerable value to the public.

3057. But you see very little hope, things being precisely as they are, of that being done?—Well I am afraid, to speak plainly, that the Treasury is not very willing to supply the Charity Commission with these means as they stand in their present condition; but if there is enough money, I suppose a good deal could be done to organise a body of Inspectors to do this work.

Chairman—continued.

3058. Do you think that, even if the Treasury were willing, some difficulty might arise in the House of Commons as things stand at the present moment?—I think it is not impossible. The House of Commons has, as I say, often taken an attitude towards the Charity Commission which is not very good for purposes of education.

3059. Passing from that, do you wish to say anything to us with respect to the reports of proceedings?—I may say in relation to reports of proceedings under the Endowed Schools Acts that the Education Department, as far as I am aware, have never made any report on their side of the matter, the later stages, until last year, when I arranged with the heads of the department to have some account at any rate of our work in relation to schemes inserted in our ordinary annual report. The Charity Commissioners, I ought to say further, are bound according to law to submit to us a report of their proceedings so far as those proceedings concern us at the Education Department, and we are bound according to the Act to lay that report upon the table. That report has never been laid upon the table till this year, and it is now going to be laid on the table. Perhaps it is rather a perfunctory performance (but I think on the whole it is better that we should follow the Act perfunctorily), because it really contains what is already in the report of the Charity Commissioners themselves; but it shows, at any rate, that there was a direct responsibility by the Charity Commission in this matter to the Education Department. I may say that no consultation passes between the Charity Commission and ourselves as to the parts of their report which have some bearing upon our own work; take, for instance, page 31 of the report of this year; and (although it is to be regretted, still I do not know exactly how it is to be avoided) we are not in the position of presenting a joint report. Therefore I suppose the only thing to be done is for them to make their report and for the Education Department to make its report as it began to do last year, and to make it perhaps more fully and completely from its side as time goes on. But I do not consider it a very satisfactory arrangement. I think the two bodies in connection with the same schemes ought in some way or other to be able to make their report together.

3060. The report to which you have alluded, a particular part of it, trenches, if I may say so, a little more than has been usual upon controversial ground, I think; and might it become desirable from that point of view that the Education Department should give to Parliament its own account of the story?—Well, I should be very sorry if two departments reported in any conflicting sense on these matters; it would be a great misfortune; I think it would be much better if they could in some way or other agree upon what should be put in one report

3061. Then, in conclusion, do you wish to say anything to us as to the views with which you offer this evidence?—I do not wish to exaggerate the difficulties of the position which I hold, because no doubt something has been done to lessen these difficulties by means of common sense and friendly intercourse between the two departments; but the difficulties exist certainly

Chairman—continued.

under the Acts as they are at present constituted, and I have no wish whatever that they should, in fact I am very anxious that they should not be concealed from the Committee, because there are some cases in which what has been called ministerial responsibility is reduced almost to nothing, and therefore that responsibility of the Government which has been sometimes spoken of must be accepted with various limitations. The head of the Education Department, the Education Department itself, is often placed in much difficulty. What I feel is that the greater become the demands in this country for a complete organization of secondary education, the more the interest taken by the Minister himself and the Education Department in the work of which I have spoken, the more it appears to me will the weakness, if I may so call it, in the present machinery tend to become apparent.

3062. Is there anything that you wish to add?—Nothing more.

Sir *Stafford Northcote.*

3063. May I ask whether you, as Vice-President, have any duties other than educational duties?—I have to answer questions in the House of Commons as to matters which arise in the Privy Council quite outside my educational work. There are matters connected with poisons and other miscellaneous questions; there are matters connected with University Charters, which, though not strictly under the department, yet of course I am always consulted about; and various other matters under the Privy Council which I may have to answer questions about.

3064. But practically your work is almost entirely educational?—Yes, practically.

3065. And I suppose I may take it that it pretty fully occupies your time?—Well, I think my time is fairly well occupied; but as I have told you, I have found time to set up a Departmental Committee which has never been set up before, and attended it very regularly, and got a good deal of advantage from it. But of course you will bear in mind that being a Cabinet Minister I yet have not the assistance which many Cabinet Ministers have of a Secretary or other Minister who is a paid member of the Ministry to assist me in the House of Commons.

3066. As regards Parliament, I suppose you as Vice-President, accept the responsibility when your Department has approved a scheme of securing, or endeavouring to secure its passage through the House of Commons?—If an address was moved against it, I should certainly undertake its defence.

3067. You would consider yourself responsible, and not the Parliamentary Commissioner?—I think there is no doubt about that.

3068. That is with regard to schemes under the Endowed Schools Acts. Then with regard to your position towards the Charity Commission generally, I take it to be that your position is that you are only a critic of a completed scheme, but that you have no power of initiation?—I have certainly no power of initiation, and I may certainly at the later stages become a critic.

3069. But surely the Education Department have ample powers of criticism, when a scheme

Sir *Stafford Northcote*—continued.

is submitted to them for approval?—Yes; what I intended to say was that I may approve altogether, and then I am not a critic; but I may in other circumstances become a critic.

3070. And you have no difficulty at any time in procuring the correspondence for your information that may have taken place between the Charity Commission and any locality where a scheme is proposed?—No, I have stated that the Commissioners were very willing to give us the various reasons which had led them to their conclusion.

3071. You said you had some hesitation as to whether you should combine the position of Vice-President and fourth Parliamentary Commissioner. Had you done so I presume you would not have expected to have had time to control in any way the preparation of schemes yourself?—If I had become the fourth Commissioner, I should have attended the meetings of the Commissioners pretty regularly, and asked them, as far as they could, to arrange to bring up the matters concerning schemes under the Endowed Schools Acts at such times as I could attend.

3072. But no doubt you are aware that at those meetings the schemes as prepared are brought up for consideration?—Yes.

3073. That it is not at those meetings that the schemes are initiated, and you would not have expected to have had time personally to prepare schemes?—No; I do not understand that that would be expected of the Fourth Commissioner.

3074. May I ask whether you, as a matter of fact, have disapproved of any or of many schemes?—I understand that no schemes outside the Welsh Intermediate Act, under which alternative schemes are permitted for the same county, have been disapproved in my time.

3075. You not infrequently remit schemes to the Commission for amendment?—Certainly, we have remitted a certain number.

3076. And may I ask if you have found the Commissioners generally ready to accept your declarations where you thought the schemes required amendment?—Well, in some cases they have and in some cases they have not, but the present practice of course places us, as I have said, very often as a kind of intermediary between the Charity Commission on the one hand and the opponents of the scheme on the other; and in that case we try to arrive at a solution without any actual, at any rate any final, difference.

3077. With regard to the question of the length of time that schemes take, as to which we had some evidence from Mr. Thomas Ellis, if a scheme was prepared by the Education Department, a similar consultation with the locality would no doubt be required: do you think that much time would be saved in the passing of schemes under the the Endowed Schools Acts?—I suppose if all the work were done under the same roof, and without there being two bodies to consider the matter, you might remove some of the months of advertisement and so forth, and lessen the time in that way.

3078. Are not those months which are given with a view of enabling persons locally interested to raise objections?—Yes; they can do it twice over; I think the process is rather lengthy.

3079. But

Sir *Stafford Northcote*—continued.

3079. But that process is not materially lengthened by the fact that the scheme is prepared by the Charity Commission rather than by the Education Department?—If it were prepared in the Education Department, I suppose the Education Department would be responsible, and there would be no what is called Court of Appeal; and then, no doubt, time would be saved. At present there are two separate stages.

3080. May I ask you a question with regard to the answer you gave about your accepting with some hesitation what I may term the Head Master Dismissal Clause; may I put it to you that it is rather like the Government of the day accepting an amendment to meet the general sense of the House of Commons with which they may not personally be in entire sympathy; is your position in accepting this Head Master Dismissal Clause analogous to that?—Well, of course if it applied to only one scheme I think it would be analogous; but as I hold strong views from the educational point of view on this matter, I, according to present practice, must accept it again and again in every scheme that comes up.

3081. Do you, as a matter of fact, have frequently informal communications with the Charity Commission?—I have seen the Chief Commissioner and the secretary frequently, because they are members of this Departmental Committee of which I have spoken. I think my intercourse with the other Commissioners has been very limited.

3082. But that is not due to any indisposition on their part, I may take it?—Not the least; we are the best friends, if I may say so.

3083. Then with regard to the power of veto which the Charity Commission have upon schemes, surely they must be aware that if you remit a scheme to them for amendment they cannot hope to pass it without the approval of the Education Department; is not that an overwhelming reason why they should amend in the sense desired by the Education Department?—I understand that you mean that they would hesitate to kill the scheme in the same way that I hesitate to kill the scheme.

3084. Precisely?—I think it probably is so; but you see the first responsibility lies with me. If I make a recommendation which possibly they may not approve, then the scheme is killed. In their case, when they get my recommendations, there may be one which they feel so strongly about that they would prefer to begin the scheme all over again rather than accept it.

3085. Yes; but they would begin the scheme presumably over again, and knowing that there were certain points on which the Education Department would stand firm, would there not be practically an overwhelming pressure upon them to produce such a scheme as the Education Department would accept?—I think if they refused to accept our declaration in the first case, they would not bring a scheme up again with what we had proposed, because that would be wasting time; they would be much better advised to accept it at once. I think if they went to the point of saying that they would not insert it, they would not begin another scheme, because if they refused to insert it again then we should simply be reduced to a deadlock.

Sir *Stafford Northcote*—continued.

3086. But would not the local pressure compel them to prepare a new scheme, and would they not, as men of common sense, not prepare a scheme which they knew would be a second time rejected?—I cannot judge as to that. If they accepted it the second time, I think they would have wasted a good deal of time.

3087. I think you said something about it being the business of your department to ascertain what the maximum of your requirements was that the Charity Commissioners would accept; I suppose you might put the matter the other way, and say that it is their business to find out the maximum that they can get from you?—In the stage of confidential communication no doubt the Charity Commission consider to some extent what the department appears to desire, just as we inquire very carefully what they are prepared to accept.

3088. My reason for putting the question was that I thought that possibly your evidence might look as if they possessed a veto over your department. There is at least an equally strong veto, if not a stronger veto, than you possess over them?—Yes, there is a kind of veto on both sides, and that no doubt makes one of the difficulties.

3089. When you say that you think the difficulties of educational schemes will be increased and ministerial duties become heavier, does not each scheme prepared by the Charity Commission and sanctioned by your department form a kind of precedent for future schemes?—I suppose so; but you see I have nothing to do with the initiation of schemes.

3090. But would not the formation of such a body of precedents render educational work so far rather easier?—There is a very large body of precedents at the present time no doubt contained in the various schemes that have been carried. How far public opinion in the future may endorse or not endorse all those precedents, of course it is not for me to say; but I quite agree that much has been done which is most valuable in the way of precedents.

3091. With reference to the Chairman's question in which he spoke of a widening of the gulf between your department and the Charity Commission, and want of constant intercourse, why should there be any increased difficulty in the way of constant intercourse?—I think that probably as far as actual personal intercourse goes, during the last 20 months I have had (I imagine so) more personal intercourse with some of the Commissioners than most Vice Presidents. My point was, in putting the actual state of the facts, to show that, as I have said, the Vice President had been warned off from sitting on the body of the Charity Commission itself, and therefore as to any right of intercourse, up to the point when the scheme comes to the department, there really is very little.

3092. With regard to this question of the warning off of the Vice President, is it your opinion that the appointment of the Fourth Parliamentary Commissioner was intended as a warning off of the Vice President, or merely that a gentleman in touch with Parliament should be appointed who would have a greater knowledge of the schemes than the Vice President would

Sir *Stafford Northcote*—continued.

have leisure to acquire?—You see the Vice President was not warned off in 1888, but he was warned off in 1874. He undertook that he would not sit; and as he was, according to that idea, never to sit again, I think the appointment of the fourth commissioner was a very useful thing. I never intended to imply that the new fourth commissioner warned him off.

3093. Then, with regard to the question of the estimates of the Commission, you said that the Vice President might, under certain circumstances, have to support an estimate for expenses in connection with a policy of which he might not entirely approve?—If he were really responsible for the estimates, which I think was the hypothesis which the Chairman put.

3094. But would his position be different from that of the Secretary to the Treasury, we will say, who may have to defend the expenditure of money which has been squeezed out of the Treasury by a powerful Minister and which he, the Secretary to the Treasury, has only conceded with great reluctance?—The money which was so squeezed would have to be supported by the Minister who got it.

3095. I take it that there are a certain number of Irish votes for which the Secretary to the Treasury is mainly responsible to the House; I presume that that money is granted on the application of the Chief Secretary or the Irish authorities; and the Secretary to the Treasury may think that a lot of it is unnecessary expenditure, but he allows himself to defend them?—I think he is bound to defend it when he has allowed himself to be "squeezed."

3096. And the Vice President when he has accepted a scheme is bound, is he not, to render any assistance that he can in passing it through the House of Commons?—I admit that fully. I was not dealing with that point when I answered the Chairman in the sense you speak of. When I have written the words, "I approve," I must be responsible for that scheme, though sometimes in a very limited sense; but the Chairman assumed for the moment that I was responsible for the general vote, and I was saying that in that sense I might have to defend a policy of which I did not approve.

3097. And lastly, with reference to the question of "momentum" behind the Charity Commission, is not the practical answer to the difficulty the Chief Commission is said to have raised the fact that their estimates do go through, and therefore they have sufficient momentum?—I was not sure whether the idea did not apply to the development of some of their educational work. I must admit that I think if a powerful Minister had been at their back with a desire to do strong educational work they would have been better treated than they have been, and would have done a good deal more.

3098. Their estimates do go through as a matter of fact?—Yes.

Mr. *Griffith Boscawen.*

3099. You spoke a great deal about the embarrassing position that the Minister of Education was put in with regard to the Charity Commissioners in reference to these schemes; you used the words that the Charity Commission make themselves the masters. Do you

Mr. *Griffith Boscawen*—continued.

really mean to say that you have found that the Commission dictate to the Department exactly what they want, and that the Department has to consent?—I have not got the words I used to refer to, but I said, in some sense, the masters.

3100. In what sense?—I will explain to you in what sense as far as I can. When a scheme has to be remitted with a declaration, the Minister has to consider very carefully whether the Charity Commission will or will not accept that declaration, because if they do not accept the declaration the scheme may be killed, and he may prefer that they should be his masters in certain points and have, if I may say so, their own way rather than kill the scheme.

3101. Is not the Department in a very much stronger position than the Commission; they may refuse, you say, to make a certain alteration, but the Department can first of all say, "If you do not, we will not approve of the scheme," and secondly, it can go further and say, "If you do not the scheme will not get through the House of Commons." Surely, that puts the Department in a far stronger position than the Commissioners are in?—The Commissioners, no doubt, are perfectly aware that if they do not accept a declaration the scheme may be killed, but it is quite possible that cases may arise in which they would prefer to begin the scheme all over again rather than accept the declaration of the Minister; and in that sense, and in that limited sense, they do become the masters of the Minister.

3102. It is a very limited sense?—Well, I think myself it is a very practical sense.

3103. Looking at it practically you have said that it is a very rare thing indeed for a Minister to use his right of rejecting a scheme altogether?—Of disapproving of the scheme.

3104. If he disapproves it is practically rejected, is it not; is it a common thing for the Commission to refuse to make an alteration which the Minister desires?—I have certainly found in confidential communications that in this informal stage there were matters which the Charity Commission would not be likely to accept when they got the declaration.

3105. Could you tell me of any cases in which the Commissioners have refused to make a change in their scheme at the instance of the Minister of Education?—Not many, for this reason: that in confidential communications we ascertain exactly how we stand, and we do not remit with a declaration unless we are pretty confident that that declaration is going to be accepted.

Chairman.

3106. May I put this to you: The difficulty of your answering these questions arises from the fact that we are now attempting to go into this series of what you have described as informal and confidential communications?—Yes; it arises partly from that and partly from the fact that if, as Educational Minister, I, in connection with the Department, really put into the schemes what we thought proper and declared in favour of them, I think we should be or might be interfering so much with the previous work of the Charity Commission that it is on the whole very undesirable.

Mr.

Mr. *Griffith Boscawen.*

3107. Supposing you were a Minister of Education in the sense that you had the Charity Commission in your department also; would not a sort of confidential communication between you and the locality, and you and those promoting the scheme have to go on in the same way?—Very much like what happens when we bring in a Bill for any particular class or persons.

3108. And your scheme would be a compromise?—It might be.

3109. And at the present moment your schemes are a compromise, are they not?—They may or may not be; but I have very little to do with the stage of compromise in the earlier part of it.

3110. You spoke of the Carnarvonshire scheme; it appears to me that in that case you did not suggest any alteration?—I am afraid I cannot retain in my memory the details of schemes; I think I shall not be able to give you information on details.

3111. I only wished to see how far this particular illustration bore on the question before us. In this particular case I think you stated to the Committee that although you had taken one view as a member of the County Committee you did not insist upon that view as Minister of Education afterwards?—That is quite so as to other and different schemes.

3112. Therefore my point is simply this, that taking in that particular case that particular instance does not show in any way a difficulty between the Education Department and the Charity Commission, because the Education Department did not attempt to interfere?—That is perfectly true.

3113. Now, in other cases you have interfered I mean you have succeeded in altering the scheme?—In various cases alterations have been accepted by the Charity Commissioners; I never gave evidence that implied that they have not.

3114. But practically, as a matter of fact, alterations have been made?—Most certainly.

3115. May I put it in this broad form. In several cases where you have wished for great alterations, alterations have been accepted?—That is quite true; and in some cases they have been refused.

3116. Can you give us any case?—Yes, in Cardigan and in Flint.

3117. Are those the only two cases?—Those are the cases that I have before me; but I have pointed out the particular reasons which prevent our getting to the stage of refusal; and therefore in accordance with what I have said, nobody would expect that there would be many cases of refusal.

3118. But those are the only two actual cases of refusal that you can tell me of?—Those are the two cases which I mentioned here, and even those are peculiar. The natural course in accordance with what I have spoken of would be that there would be no refusals at all.

3119. Now let us look at it from a broader point of view. Do you think it would be in every case advisable that a Government Department should prevail against the Charity Commission?—I do not quite know what you mean. In all other spheres of education, a Government Department tries to arrange matters of education partly secondary, partly primary, in accordance

Mr. *Griffith Boscawen*—continued.

with the public opinion of the day; and if it does not succeed in doing so it would probably be defeated.

3120. Is it not a fact that these schemes, and I think principally these Welsh schemes have raised, perhaps unfortunately, a very large amount of political and religious or semi-religious division of opinion?—In the case of the Welsh Act there were two alternatives. There was the alternative of the Charity Commission's own scheme, and there was the alternative of the Joint Committee's own scheme. When the Vice-President received schemes from both sides there were of course differing opinions, one opinion supporting one scheme, and one opinion supporting the other.

3121. I want to know this: is it not a fact that very large and rather embittered questions of religious and political controversy arose over many of the details of the Welsh schemes?—No, not over many of the details; there was a clause in a certain number of the schemes which provoked a certain amount of controversy; but not half as much as has been provoked under the ordinary Education Acts.

3122. It was political controversy?—You may call it political if you like, it does not appear to me so.

3123. Or religious, in regard to the question of boarders, for instance?—Certainly there was some religious difficulty, but I consider that a very modified amount of religious difficulty arose there. The House of Commons saw no reason to question the whole matter, therefore I think that was very good proof that it was not very serious.

3124. It was questioned elsewhere?—Yes, that is so, but I think the fact that the House of Commons did not enter into it very seriously shows that there was nothing very grave.

3125. What I want to put to you is this: granting that such questions may arise anyhow, is it not advisable that these schemes should be framed by an impartial body like the Charity Commission and not by a Government Department which I do not say is, but may be, subject to political pressure?—Of course, if you say that you might say it with much more force with reference to an enormous amount of the work which is under the Education Department. I think that there are distinct disadvantages in this independent operation, and there may perhaps be some advantages in it also.

3126. Turning from that, you spoke of a certain doctrine, that a proposal once rejected in either House could never be put into any future scheme?—I said, with great diffidence, that I understood it to be the doctrine.

3127. What do you mean by any future scheme; for instance, if a proposal relating to a scheme for one county was rejected, could it not be put into a scheme for any other county?—That is not what I have understood to be the doctrine, certainly.

3128. The doctrine commonly means this: that the same proposal must not be put in the same scheme?—No, I think if you look into the facts you will find that it is very different from that.

3129. May I ask you your view of what the

Mr. *Griffith Boscawen*—continued.

doctrine is?—I have tried to state it as fully as I could; but I can tell you, as a matter of fact, that where a clause has been struck out in the case of one county the Charity Commissioners have refused to re-insert it in the case of another county.

3130. That is a doctrine of what, of the Charity Commission?—No doubt it must be a doctrine of the Charity Commissioners.

3131. Not a matter of law, but it is a doctrine?—I believe so.

3132. And it is a doctrine that you cannot get rid of?—I do not know about that; a future body of Charity Commissioners ten years hence might hold quite a different doctrine.

3133. But I want to know how this doctrine applies to you; do you mean to say that it is a doctrine, like the law of the Medes and Persians, that cannot be altered without entirely reconstituting the Charity Commission?—Certainly not; I did not mean that. I simply meant that it was a doctrine which, to some extent, affected my mind when I was dealing with schemes.

Chairman.

3134. And which carried with it certain consequences?—It carried with it certain consequences.

Mr. *Griffith Boscawen.*

3135. Certain present consequences?—Certain present consequences.

3136. You admit that ten years hence they might not be operative?—A future body might alter the doctrine.

3137. And they would have power to frame a doctrine of their own?—I suppose so. Of course, questions like that might be referred to the Law Officers, and decided by them; but if that is not done, I take it they can alter such a doctrine.

3138. If a proposal was rejected, one year and a similar scheme was brought in the next year without that proposal, and you made a declaration as Vice President that you wished that proposal inserted, and that you could not approve of the scheme unless that proposal was inserted, do you mean to say that the Charity Commissioners would necessarily refuse to go on with the scheme?—They have already refused to insert such a clause where it has been once struck out.

3139. In what case?—In the case of Flintshire.

3140. Is that the only case?—I am not quite sure.

3141. Because that clause has been struck out in another case?—Yes, in another.

3142. Therefore the doctrine does apply not only to a scheme applying to the same district, but to other districts?—Yes.

3143. Then I wish to ask a question about the want of constant intercourse. Is there any insuperable difficulty in maintaining constant intercourse with reference to these schemes under the Endowed Schools Acts, between the Vice President and the Endowed Schools Commissioners?—I am afraid I cannot have made my point clear as to that. When the Vice President in the earlier years of the Act was in constant communication with the Commissioners, he was very much within his rights, and it was obviously expected; but from the time when, for very good reasons perhaps, it was thought that the Vice President should no longer sit on the Charity Commission, the kind of intercourse which arises between people who sit habitually on the same Board came to a close; and that was what I meant to imply.

3144. I suppose that practically you are able to obtain all the information you desire as to the framing of schemes, as to the objections to the schemes, and as to the local feeling?—But you understand that is the stage when the scheme is generally complete. The difference between that kind of information and the information you obtain if you sit on a board from the very beginning of a scheme up to the time it is handed over to the department, is very great indeed.

3145. The fact that you are not concerned in framing the scheme surely strengthens your hands. As you said, you act as judge; if when you act as judge you are able to get all the information, is it not an advantage to you that you are not originally responsible for the scheme?—I think I never used the word judge.

3146. I thought you did?—Not quite in that connection, at any rate. But I consider that the fact that the Vice President is excluded from all knowledge of the scheme up to the time that it comes to the department renders him, from the educational point of view, much less able to modify the scheme from the educational side. If you look upon him purely and simply as a judge, which I am unwilling to look upon the Minister of Education in reference to these matters as being, then perhaps the separation between the two bodies may be desirable.

3147. Did you not practically represent your position as being that of a sort of judge by saying that you intervene at a later stage with a view of obtaining some sort of compromise between the conflicting interests?—I am not aware that that is the usual duty of a judge.

3148. Well, an umpire?—Well, if you call me an umpire, then I think you will hardly say that I bear the full responsibility of the Government for each of these schemes.

3149. No; I am not saying so; but I say you are an umpire, and that you have very large powers, inasmuch as you can reject a scheme or prevent it from passing altogether, unless your terms are assented to; is not that the case?—I have the power of rejecting and disapproving the scheme.

3150. Your evidence to-day I take it has referred almost entirely to the Endowed Schools side of the Charity Commission?—Absolutely; I have nothing to do with anything else.

3151. But you spoke of the unpopularity of the Charity Commission?—I indicated that, to my great regret, from time to time the Charity Commission have been more unpopular than in some cases I thought they deserved to be.

3152. You

Mr. *Griffith-Boscawen*—continued.

3152. You were really in that referring to the Charitable Trusts side, were you not?—I could hardly draw a distinction between one case and another, so many matters have been raised in the House of Commons and outside.

3153. But I may ask you this: The objections to the present system which you indicated could all be removed without affecting the present constitution or position of the Charitable Trusts side at all, could they not?—That is not a side of the work on which I am prepared to give evidence.

Mr. *Griffith-Boscawen*—continued.

3154. I mean that that side of the work does not affect your department?—Of course I am only dealing with schemes under the Endowed Schools Acts.

Wednesday, 13th June 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Jesse Collings.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Freeman-Mitford.
Mr. Howell.
Mr. H. L. W. Lawson.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

The Right Honourable ARTHUR HERBERT DYKE ACLAND (a Member of the House), further Examined.

Mr. *Lawson.*

3155. Do you consider that there is any other Department of State than the Charity Commission which is organised to deal with matters of public importance without direct Parliamentary control?—I am not very well acquainted with the exact arrangements of some of the other bodies which have been mentioned in the course of the evidence which I have read; but I certainly think, as far as I know, that there is no body which deals with matters so specially interesting to the public at large, which is in an independent or *quasi* independent position like the Charity Commission.

3156. Of course the so-called Boards of Trade and others are Boards in name only?—Certainly; in the same sense as the Committee of Council, of which I am Vice-President, is a Committee in name practically.

3157. There are certain Boards, the Boards of Customs and Inland Revenue, for instance, which do sit as Boards?—So I understand.

3158. But they are subject to the Treasury and the Chancellor of the Exchequer?—I believe so; I do not know much about the details.

3159. And their work is essentially different in kind from anything done at the Charity Commission?—It does not appear to me to excite anything like as much general and local interest as the work of the Charity Commission.

3160. Dealing with procedure, do you consider that there is much waste of time involved in the present relations of your Department with the Charity Commission in regard to schemes?—The reason why schemes have to be advertised by us in the various ways that I have described is supposed to be to give the localities and others interested a further opportunity; but it seems to me that if you take the course of a scheme which is not criticised, or even of one which is moderately criticised, the stages are, on the whole, much too long, taken altogether.

3161. Supposing that the Endowed Schools Commission were a Department in your office, do you think that there would be a saving of public time?—Well, of course it would be almost impossible to have so many stages if the Endowed Schools Commissioners were under the Education Department, because it would become ridiculous.

Mr. *Lawson*—continued.

3162. In practice, of course the Parliamentary head of a Department like yourself does not enter into the primary details of any sort of schemes, but it comes up to him after it has passed through the different stages of the office; but I suppose in that informal process there would not be the same amount of public time taken up as there would be in communications between two distinct Departments?—Of course it is rather difficult to picture exactly what it would be, but I imagine that as we should be cognisant of all that went on from the beginning, much of the work which is now done would be quite unnecessary. Of course at some stage or another what one may call the advertisement operation would be necessary; but it surely would not be doubled or trebled as it is now.

3163. In regard to other schemes not being Endowed Schools Schemes, in the ordinary dealing with charitable trusts, where money is taken from other purposes and devoted to education, does your Department know officially of it. Supposing that there is a readjustment of a charitable trust, and money that has been left for some purpose, such as we have had constantly mentioned, is devoted to education, does that come in any way under your Department?—No, nothing comes to us except the complete scheme under the Endowed Schools Acts, in the ordinary course.

3164. I mean the creation of a scholarship, for example, to enable children from primary schools to obtain a liberal education would not come under it?—In the case of an Endowed Schools Scheme, all the arrangements for the scholarships and exhibitions would have been made entirely without any knowledge of mine while the scheme was with the Charity Commission.

3165. But if money were taken from such a purpose as the relief of prisoners and captives, and some of those older purposes of charity, and devoted

Mr. *J. W. Lawson*—continued.

devoted to education, unless it were part of our Endowed Schools Scheme, you would know nothing of it?—No; and if it became part of an Endowed Schools Scheme, I should know nothing of the arrangements made till they came to me in the form of a complete scheme.

3166. Have you considered whether, in the drafting of schemes, sufficient account is now taken of the public opinion of localities, as expressed by the new representative bodies in the counties?—You see I have followed largely the tradition of my predecessors in approving schemes in a very perfunctory manner, and cannot say that I have studied that particular question very carefully, except so far as occasionally objections have come before me. I may add that, in relation to the Welsh schemes, which I know as a private individual a great deal about, I have taken a great interest in that matter.

3167. Do you not think it would be expedient now that every draft scheme should be sent down to the County Council of the particular county in which the place may happen to be situated where the charity dealt with is?—I think perhaps you are drawing me a little beyond the evidence that I came to give; but I may say that, in the case of the Welsh schemes, we, the Joint Committee (and I am again speaking in my private capacity as formerly Chairman of a Joint Committee), practically insisted on taking our schemes which were also often the Charity Commissions' schemes before the County Council for their approval before they reached anything like their final stage.

3168. Of course, in several counties, notably in London, there is a committee appointed which would deal with matters of this kind, but as I understand now they have no right to claim that anything should be submitted to them; it is only done by the courtesy of the Commission?—I understand that may be so. You must remember that in the case of Wales the County Councils were finding a very large part of the money themselves.

3169. That is not so, so far as you have gone in London except in regard to technical education?—No, I think not.

Mr. *J. W. Lowther.*

3170. I understand that your evidence is confined entirely to the Endowed Schools portion of the work of the Charity Commissioners?—Yes, it is confined, as far as I can confine it, to the Education Department work in relation to the schemes which, under the Endowed School Acts, are sent to the Department from the Charity Commission.

3171. And after the evidence which we have had in chief from you, I think I may say that your evidence is specially confined to the procedure relating to schemes?—And to the so-called responsibility of the Minister in relation to those schemes.

3172. Quite so. I mean that, as I understood it, it did not deal with the jurisdiction of the Charity Commissioners over charitable trusts which were of an educational character?—No; I think that is obvious from the evidence I gave.

Mr. *J. W. Lowther*—continued.

3173. And your objection is, as I understand, to the whole of the machinery as set up by the Acts of 1869, 1873, and 1874?—I was not so much taking objection to the procedure set up under those Acts as trying to show that for one reason or another what was originally intended to be, I imagine, some very real ministerial responsibility had become to a large extent a nullity.

3174. And you quoted Mr. Forster's statement?—Yes; one statement of Mr. Forster, which Mr. Richmond had already quoted, and another statement of Mr. Forster from his speech in 1873.

3175. You do not think, then, that under the existing law there is a well divided and well defined responsibility as between the Education Department and the Charity Commission?—Well, speaking for the Education Department and as its head, I think the responsibility which I am supposed to have for these schemes is largely, if I may say so, a sham.

3176. Do not you think that the business of the preparation of these schemes was committed by the deliberate judgment of Parliament to a body from which political influence and the influence of the executive Government was specially excluded?—Well, it is very difficult to say exactly what were the intentions of Ministers; but when you find Mr. Forster and others using words which imply that the Endowed Schools Commissioners were to be the servants, and even, I think Mr. Bruce said, the creatures of the Government of the day, it is rather difficult to say that that intention has been carried out.

3177. Do not you think that it was the intention of Parliament that the schemes were to be framed by an independent authority, and when framed were at the proper stage to be referred to the Education Department to pass an independent judgment upon them?—Well, it appears, as I have already said, that in the earlier stages (and I have been informed on this, as I said before, by a Member of the Charity Commission), that the Endowed Schools Commissioners or their secretary were in constant communication with Mr. Forster, who was then Vice President, before the stage at which the scheme came over to him.

3178. Do you think that the House of Commons knows when these schemes come before it that it is dealing with the judgment of an independent body, namely, the Charity Commissioners, and the affixed judgment of a Department of the Executive Government, namely, the Education Department?—Well, I do not know what the House knows; but the independent judgment is one thing and the affixed judgment of the Minister is another thing. If that affixed judgment were really an independent judgment, in many cases the schemes might be different to what they are when the House of Commons receives them.

3179. To use a phrase which was used by the honourable Member for the Biggleswade Division the other day, should you be surprised to hear that the propositions which I have been putting to you are taken *verbatim et literatim* from a speech of Mr. Gladstone in 1874?—No, I should not be particularly surprised. I have only come here to say what I take to be my position as

Mr. *J. W. Lowther*—continued.

as far as I have had experience of these matters during the last two years as head of the Education Department.

3180. Was he not as Prime Minister responsible for the introduction of the Acts of 1869 and 1873?—I think it is extremely probable; but I think those Acts have not effected their purpose such as I conceive it to have been in the mind of a man like Mr. Forster.

3181. I do not understand that you make any suggestion to us of alterations?—No, I do not consider that to be within the purview of what I propose to give as evidence.

3182. Do you object to the repetition of the publication of these schemes on the ground that it causes waste of time and delay?—Well, I do not come here to make objections, but I admit that in my own experience as Chairman of a Joint Committee in Wales, and as looking at the course of other schemes besides that particular scheme, the prolongation of the whole process is much longer than I think the public nowadays may reasonably expect.

3183. Are not those delays interposed for the benefit of the public, so that the public may have three shots at the scheme, and that the scheme may not escape the attention of the locality?—I think they are; but I think nowadays the localities are much more wide-awake than they used to be, and I believe that if they were certain that one shot was the final shot, they would do all that they now do.

3184. With regard to the initial stages of which you complained that the Education Department had no knowledge, are not those initial stages chiefly of a judicial or semi-judicial character?—Well, I saw a great deal of the initial stages when I was Chairman of the Carnarvonshire County Committee, and it did not appear to me that those stages were of a judicial character.

3185. Would you mind putting the Welsh Intermediate Education Act out of the question for the time altogether?—I have ventured to quote my experience of what takes place in schemes under that Act, so far as I understand it to be in common with what takes place in England.

3186. Are you speaking now as Minister or as chairman of a joint education committee?—As chairman of a joint education committee.

3187. Now I would like to ask you as a Minister, responsible in some respects for the Endowed Schools schemes that come before Parliament, are not the initial stages of those Endowed Schools schemes chiefly of a legal or *quasi* legal character?—That is a subject on which I know so little that I am very sorry to say I cannot answer the question.

3188. For instance I will put this to you: Are they not chiefly concerned with Section 5 of the Act of 1869, whether the endowment is an educational endowment or not; Section 8, whether the school proposed to be dealt with is an excepted school or not; Section 13, whether the interest is or is not a vested interest; Section 19, whether there is a religious character or non-religious character attached to the endowment; do not the initial stages of the scheme refer to those very points that I am now putting, and if so, are they not of a legal or *quasi* legal character more than of an administrative character?—I think it is quite possible that some of those matters are carefully considered, but from my own experience, if I may say so not as a Minister, watching all the initial proceedings of a scheme, I conceive that a great deal more of the time of the Charity Commissioners is occupied in really educational matters.

3189. Are not the preliminary steps that are taken by the Charity Commission, such as must always be left to the subordinates in any office?—I do not suppose that the Minister himself ever takes what you may call formal preliminary steps which lead up to any measure.

3190. And is it not really the function of the Charity Commission to sift these things through, and to leave the really important question as between the scheme and the public for the decision of the Education Department?—I cannot say that I think what they do is to leave important matters for the decision of the Education Department. The scheme comes to me in a perfectly complete form, and if I write the words, "I approve," on it the moment I see it there it is perfectly complete, and settles all the matters of importance which have to be dealt with.

3191. Supposing that a scheme as framed by the Charity Commission goes in direct contradiction to the feeling of the locality, would not you be placed in a position to decide as between the merits of the scheme and the merits of the arguments put forward from the locality?—Of course, you are now supposing a case in which a scheme comes across that is certain to be objected to by the locality.

3192. Yes?—I should say that, as a rule, the Charity Commissioners do not send schemes across at all so far as I know (but I speak somewhat doubtfully) until they think they have fairly met the wishes of the locality; but if objection is taken, as it may be taken under the Act by the locality, then, as I have already described, as a rule, by a kind of informal operation, we try to see if some compromise cannot be arrived at which will enable the Department to approve the scheme.

3193. Now, you have full knowledge, have you not, of everything that has been done by the Charity Commission?—I am afraid I do not quite follow the question.

3194. I think I am quoting your evidence; you said, or I understood you to say, that the vice-president must give his fiat upon matters on which he is not fully informed?—I was not quite sure what you meant by "full knowledge of everything."

3195. Full knowledge of all that they have done in respect of any scheme that comes before you?—A great part of my evidence went to show that I have no knowledge at all of what they had done.

3196. That is why I am putting the question to you; is it not the fact that the whole of the files in each case are sent over to your Department?—I explained before in an answer which I gave that the Charity Commissioners did their best to enable us to know the ground on which they had formed their opinion, but that that was

at

Mr. *J. W. Lowther*—continued.

at a point when the scheme was practically complete.

3197. But you have, if you desire to acquire the information at your disposal in the office, the whole of the correspondence which has passed between the Charity Commissioners and persons interested, and the statement of the decisions of the Commissioners upon all points as they arose, have you not?—I believe that the Charity Commissioners always place those matters of correspondence at our disposal, and I hope that nothing I have said has implied that they are not willing to do so.

3198. It is not a question of being willing or not; but is it not the fact that the files are sent to your office with the scheme?—Yes; I believe it is.

3199. And does anybody read them?—Well, I shall have to go back upon some of the evidence I have already given to explain what I have said. When a scheme comes over and no objections are made to it the perfunctory process is gone through which was gone through by my predecessors of simply saying "I approve."

3200. That is to say, if there is no objection raised?—If there happens to be an objection raised from some quarter, what I call the informal and confidential stage of communication with the Charity Commission arises, and very often verbal communication is much more useful than looking up the files; but if necessary they will refer us to the files or we shall refer ourselves to the files and see the correspondence which took place on particular points where objection is taken.

3201. As a matter of form the file is always sent with the scheme?—Yes. I hope I have raised no complaint on that point. My point is that all the preliminary stages have been gone through before we get to that, and the scheme has practically been completed.

3202. Then supposing that you reach the point of remitting with a declaration, has there ever been a case in which the Charity Commissioners have refused to amend their scheme under the Endowed Schools Acts if remitted to them with a declaration?—I think you must ask the past history from Mr. Kekewich if you do not mind; I could not tell you.

3203. None within your experience of the office?—If you take out the Welsh schemes, 61 schemes have been submitted between the 1st of August 1892, the month when this Government came into office, and the present time; 37 of these have been approved without alteration and without going before Parliament; four have been remitted with a declaration and approved as amended without going before Parliament; 5 have been approved by the Education Department, and the two months' publication is now running, 11 are under consideration; and four have only been recently submitted.

3204. And in no case have the Charity Commissioners refused to amend a scheme in accordance with your declaration?—No, certainly not; and I have explained already how that was brought about.

Chairman.

3205. To clear this matter up, does that arise because the declaration is based upon the point you have arrived at by these confidential and informal negociations?—Yes; I think I may say we hardly ever send a declaration without knowing beforehand that the Charity Commissioners are going to accept it. Of course I am excepting the Welsh schemes at Mr. Lowther's request.

Chairman—continued.

Mr. *J. W. Lowther.*

3206. Under the Welsh Act there have been—is it one or two cases—in which the Commissioners have refused to amend?—In the Cardiganshire scheme we remitted the scheme to the Charity Commissioners with a declaration that it was expedient to amend it in a certain way, and that they declined to do.

3207. And what happened then, or I will put it to you in this way: When the Charity Commissioners refused to amend the scheme which you remitted to them with a declaration, what courses had you open to you?—Perhaps I had better follow this case and say that they suggested that the Education Department should approve the scheme of the Joint Committee, and we adopted their suggestion.

3208. That I understand, that two schemes under the Welsh Act are presented to you?—Not always.

3209. But supposing that there should be any difference between the Charity Commissioners and the Joint Education Committee, two schemes comes before you, one the scheme of the Commissioners, the other the scheme of the Joint Education Committee?—I ought to explain what the submission of the two schemes really means. The Charity Commission submit a scheme. If the Joint Education Committee (which, as you know, has three members appointed by the County Council and two by the Lord President of the day) object, they submit an alternative scheme, but they are not, as some might imagine, two separate documents; very far from it. I hold in my hand the Flintshire scheme which consists of 35 pages, and, besides schedules of considerable length, of 110 clauses. Now it is only in reference to, perhaps, three or four clauses (I speak roughly) that there is any difference of opinion at all, so that it would be quite fair to say that a great deal more than 90 per cent. of the scheme is absolutely common to both, but there are two or three, or perhaps four, or five points, making an extremely small proportion of the whole scheme, on which there is a difference of opinion, and the custom has been to put the Joint Committee's clauses in the scheme in italics following the Charity Commissioners' clause.

3210. That, I presume, is to save the cost of printing and to make it easily understood?—Yes. What I want to make clear is, that over 90 per cent., sometimes 95 per cent. of the schemes are absolutely the same, whether of the Charity Commissioners or the Joint Committee.

3211. Still, you do get at the end, the scheme of the Joint Committee, what the Act calls the alternative scheme?—Yes, the Joint Committee's scheme.

3212. Supposing that in any case under the Welsh Intermediate Education Act the Charity Commissioners refused to amend their scheme, you can always approve the Joint Education Committee's scheme, can you not?—I can do so if

Mr. *J. W. Lowther*—continued.

if I think that the Joint Education Committee are likely, being a local body, to be willing to accept the alteration which I propose. Of course, naturally, the whole object of having a Joint Committee was to lay great stress upon those wishes.

3213. But you are now going a little more into the merits than the procedure. What I want to limit myself to is the procedure. I ask again, supposing the Charity Commissioners refused to amend their own scheme when you sent it back to them with a declaration, you have two courses open to you; you can either approve the Joint Education Committee's scheme as it stands, or you can remit the Joint Education Committee's scheme with a declaration, can you not?—Yes; in one case that has produced certainly rather curious results. In the case of Flintshire——

3214. I was directed not to go into the merits of the case, only to limit myself to the procedure?—It is much better that I should not allude perhaps to the details of correspondence, but I may say that the process of putting what the Charity Commissioners are unwilling to accept themselves into a Joint Committee's scheme has in one case at least been a curious process to say the least of it.

3215. May I put it to you this way that in the Cardigan case you finally approved the Joint Education Committee's scheme?—That is so. If we had not done that we should have had no scheme for Cardiganshire at all perhaps.

3216. And that in the Flintshire case you returned the Joint Education Committee's scheme with a declaration to the Commissioners, and that they amended the Joint Education Committee's scheme in accordance with your declaration?—After formally remitting the Charity Commissioners' scheme, the Commissioners expressed the willingness of which you speak.

3217. In the Flintshire scheme you asked them to amend their scheme, did you not?—Yes.

3218. And they refused?—Yes.

3219. And suggested that you should remit the Joint Education Committee's scheme to them with a declaration of the amendments you required, and said that they would amend that scheme accordingly?—Yes.

3220. And they did so?—Yes; but they used the following words: "The action of the Commissioners in respect alike of the original submission" (you must remember that this is a scheme 95 per cent. of which practically was their own) "and of the subsequent amendment of the alternative scheme of a Joint Education Committee, incapable as such a scheme is of amendment otherwise, is, the Commissioners conceive, purely ministerial and not taken on any responsibility of theirs." In answer to that we said: "At the same time it must be clearly understood that their Lordships" (that is the Education Department) "cannot agree with the Commissioners that their action in respect of the subsequent amendment of an alternative scheme is purely ministerial and not taken on any responsibility of the Commissioners as stated in their letter of the 30th October."

Mr. *J. W. Lowther*—continued.

3221. And did the Commissioners accept that?—They retained their opinion as to the ministerial character of their operation.

3222. I do not say it is necessary, but would you have from the point of view of your Department any objection to publish the correspondence that took place upon the Flintshire scheme; the correspondence I mean between your Department and the Charity Commissioners with regard to these facts that you have just mentioned?—I think I should rather not answer that in a question now, but of course I will answer it if I am asked in the proper place.

3223. The Commissioners have never refused to amend an alternative scheme when you have sent it down to them, have they?—No; if they had there would have been no scheme for some Welsh counties.

3224. Now, with regard to this doctrine which you told us of last time, "Once condemned, always condemned"?—I think those are the words of the Chairman.

3225. Which you adopted, I think. However, you understand the doctrine I am referring to?—Yes.

3226. May I ask where you find that doctrine expressed?—I find it on page 31 of the Charity Commissioners' Report of this year, in which this is stated: "In the case of the scheme for Merionethshire, an Address was presented to Your Majesty by the House of Lords, praying Your Majesty to withhold consent from certain provisions therein relating to religious instruction in boarding houses; and the scheme has been approved by Your Majesty without those provisions." Those provisions were struck out, and then the Commissioners continue: "We have guided ourselves, in the case of schemes since submitted, in accordance with the policy thus indicated." That means, by not inserting the clause struck out by the House of Lords.

3227. And it is upon that, upon the Merionethshire scheme, that this doctrine is founded?—I think not. I certainly, in conversation with the Commissioners, have understood that it is a doctrine which was in existence before that time.

3228. With regard to this Merionethshire scheme, I do not want to go into the question of the merits, but it dealt, did it not, with Section 16 of the Endowed Schools Act, 1869, the question of religious education in boarding houses?—Yes; it was concerned with that.

3229. I remember some years ago, perhaps you remember it, the Christ's Hospital case?—I am afraid I do not know about that. I may say that in the Merioneth case, the clause which was thrown out by the Lords was a clause which had been accepted by the Charity Commissioners themselves.

3230. It is very difficult for me to put in the form of a question the arguments I want to put. Perhaps I might put it in this way: was not the Christ's Hospital scheme rejected by the Judicial Committee of the Privy Council, on the ground that the Charity Commissioners had exercised an improper discretion in amending Section 16 of the Endowed Schools Act, 1869?—I am afraid I do not know about those facts. All I know is that the Merionethshire clause was accepted

Mr. *J. W. Lowther*—continued.

cepted by the Charity Commissioners themselves, and afterwards struck out by the House of Lords.

3231. Then do you think that their proper course would have been to have gone on inserting in subsequent schemes a provision which Parliament had deliberately rejected?—I do not think that "Parliament" had deliberately rejected it. One House rejected it and the other House in my opinion tacitly approved it.

3232. Supposing that the House of Commons had struck the clause out and the House of Lords had not touched it, do you think that then the Commissioners would have been justified in putting it in the next scheme?—I compare that operation with the operation of Ministers or Departments in dealing with their measures. I never heard that any Minister or any Department was afraid of inserting two or three years afterwards some clause which had been rejected in a former Bill.

3233. It is not a case of "two or three years afterwards," but it is a few months afterwards; the Merionethshire scheme was a very short time ago; it was last autumn, was it not, that the clause in the Merionethshire scheme was rejected by the Lords?—Yes, I think so; but I should mislead the Committee very much indeed if I indicated to them that I was dealing only with these particular schemes. I was saying that any doctrine which led to the idea that a clause which had been struck out by either House was not to be reinserted at a later stage, or in a later year if you like, in another scheme, was a doctrine which would very largely fetter and injure the progress of educational work under schemes like these, and I spoke of the doctrine as I said with some diffidence.

3234. Is it not the fact that whenever the Charity Commissioners have tried to amend or alter Section 16 of the Endowed Schools Act, 1869, they have always got into a mess either with the Judicial Committee of the Privy Council or with Parliament?—That lies outside my knowledge historically; what I was speaking of was broadly the general question of striking out any clause whatsoever in any part of the scheme.

3235. And do you think if the House of Commons had struck it out you would have seen no objection, or do you see any objection, to their putting it in again into schemes that immediately followed?—I do not see why if the Government of the day or the Charity Commissioners think it desirable to insert a clause they should not insert it even with a full knowledge that it would be struck out. But my chief point referred of course to the question of what I supposed to be the doctrine that such a clause could practically not be inserted again in a future year.

3236. Let me put this general question; all the schemes are being dealt with almost simultaneously, are they not, in Wales?—I think the present Government have been in office about 20 months; the Carnarvon scheme, which was the first, came to me almost immediately I think after we took office; there are one or two Welsh schemes still not completed.

3237. I mean to say it is not a very long business like the Endowed School business which has been going on now for 25 years?—No; I should think four or five years would cover the whole thing probably.

3238. Now one question (still on procedure) with reference to the Cardigan scheme; do you remember that, where you approved the Joint Education Committee's scheme it had to do with scholarships?—Yes.

3239. And the House of Lords struck out all the provisions relating to scholarships?—And exhibitions, yes.

3240. And the scheme in that state received the Royal Assent?—Yes.

3241. Taking the words in Section 15 of the Endowed Schools Act, 1873, "it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme or any part thereof to which such Address does not relate"; do you construe those words as giving you no discretion in putting the scheme forward, or do you think that they leave you some discretion? Section 15 deals with the case of the scheme being laid before Parliament, and it contemplates portions of the scheme being eliminated by Parliament, and it then goes on to say: "it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme," and so forth; do you construe the words, "it shall be lawful," as meaning that it becomes absolutely necessary for the Department to put the scheme forward?—The view taken since I have been at the Department has been that it is our duty to put the scheme forward, even if part of it has been withdrawn for the approval of Her Majesty at the next Privy Council.

3242. You do not think that it leaves you any discretion?—I understand that the view that is taken is that which I have mentioned.

3243. Is it founded, do you know, upon legal advice; the opinion of the law officers?—I am not aware that the law officers' opinion has ever been taken, but I daresay Mr. Kekewich can tell you that.

3244. That was the practice as you found it?—Yes, I understand so.

3245. I understood you to say that when you write the words, "I approve," on a scheme, it makes you feel uncomfortable?—When I follow the traditions of my predecessors and write the words, "I approve," on a scheme to which no objection is taken, I feel that, as a rule, I am going through an almost perfunctory performance, and that really the fact is that I know very little about the scheme, and only approve in an extremely official way, as my predecessors have done before me.

3246. Does not it mean that you approve within the meaning of the Endowed Schools Acts?—I should think so.

3247. It does not mean, and it is not supposed to mean, that you yourself personally approve of every one of the proposals and clauses contained in the scheme?—Well, I gather from some of the evidence given that it is supposed to mean that the Minister himself is fully and effectively responsible for the scheme in the same sense that he is for a Ministerial measure which he lays on the table of the House with the consent of the Cabinet.

Mr. *J. W. Lowther*—continued.

3248. Surely a Bill, which you are constantly referring us to, is a totally different thing from a scheme of the Charity Commissioners?—Well, in evidence given before this Committee, a scheme has been actually compared to a Ministerial measure; and it is just that very view that I have felt it my duty to combat.

3249. A scheme is limited to a locality, and to a very special subject; a Bill is extended, at all events, to England, if not to the whole of the United Kingdom: I understand that you object that it is anomalous that the Charity Commission should prepare, and that the Education Department should sanction, these schemes; you consider it an anomaly?—I do not think I said so. My view was to describe the actual position; but I consider the position, from the point of view of secondary education, an unsatisfactory one.

3250. Is not the whole of this very question, which we are now discussing with you, at the present moment being fully discussed before the Royal Commission on Secondary Education?—I am afraid I cannot answer that question adequately. I know that one or two members of the Charity Commission have been before the Royal Commission, and the permanent secretary of the Education Department has been before them. If I am not mistaken he did not give evidence on that point. (*After a pause.*) That is so; I find that he did not give evidence on that point. I am afraid I cannot go much further than that.

3251. I understood you to say in your examination-in-chief that you thought the House of Commons did not back the Charity Commission sufficiently?—I am not sure that I said that exactly; but generally I have often felt that the Charity Commissioners do not receive the same kind of support which other public departments do receive.

3252. You mean that they are unpopular in the House of Commons?—Well, you see according to our usual constitutional rule most public departments have a definite defender in the Minister who is specifically and actually responsible for what his department do, and he defends them. We have not had that exactly in the House of Commons as regards the Charity Commission.

3253. That does not necessarily make the Department popular?—But it gives them a great Parliamentary strength as long as the Ministry remains in power.

3254. It gives them a Parliamentary majority, but does not make them a popular Department?—If a Department becomes extremely unpopular in the country at large, and by degrees in the House of Commons, the Ministry in power may be thrown out.

3255. Is there any occasion that you can recall when the House of Commons has rejected any of the schemes of the Charity Commission against the views of the Vice-President of the Council; in your own Parliamentary experience, I mean?—I do not recall an instance, but I cannot be at all sure that my memory serves me right. But I think not; and it was not to that of course that I was referring; it was to the general kind of questions put and the comments made on the Charity Commission especially during the passage of the Estimates.

Mr. *J. W. Lowther*—continued.

3256. And with reference to the question of his being liable to be called upon to defend a policy which he may not approve, is not that a matter which occurs to almost every Cabinet Minister in the course of his experience?—When a Minister responsible for a Department puts the words "I approve," or "I agree," on any matter which is brought before him in his Department, he commits himself to a definite responsibility for defending that to which he has set those words. When he puts the words "I approve" to a scheme with the preparation of which he has had nothing whatever to do, and which comes to the Education Department in the way I have described complete, he goes through an extremely perfunctory performance.

3257. As you quoted Mr. Forster, perhaps I might be allowed to quote Mr. Gladstone as the Prime Minister who passed the Bill. I have here Mr. Gladstone's speech on the Endowed Schools Act Amendment Bill, 1874; it is in "Hansard," Vol. ccxx., page 1702. The words refer to the state of things as they then stood, and they are these: "But when they" (that is the schemes) "came before the House, they came before it in such a way that the House understood perfectly well with what it was dealing, namely, the judgment of an independent body and the affixed judgment of a department of the Executive Government." I put this question on that: Do you think those words still applicable to the present state of circumstances, or do you think that the circumstances are quite altered, and that that is no longer the case?—I think that in 1874 the Endowed Schools Commissioners were far from being an independent body.

3258. Mr. Gladstone calls them so?—Quite so; and I think that their relations up to that date with the Vice-President had been very much closer than they are now. And in addition to that, in reference to those remarks about "the affixed judgment" of the Minister, I may remind you that up to that time the Minister had been and could be in fairly close communication with the Commissioners; but since 1874, as I have already explained, the Vice-President has been warned off sitting as Fourth Commissioner with the Charity Commission, which, if he had been able to do (no doubt there were good reasons for his not doing it) he would have learnt a great deal about the schemes before they came over to him from the Charity Commission.

3259. I am afraid you have not yet answered the question that I put, which is this: Does that sentence of Mr. Gladstone's spoken in 1874, fairly represent the present state of things, or do you think that the House of Commons takes a totally different view now from what it did in 1874, when a scheme appears before it?—It is very difficult to say what the House of Commons supposes a scheme to be; but it is in a sense no doubt dealing with the judgment of a body independent up to a certain point and then expecting the defence of a responsible Minister for its proceedings, in the same way (as has already been said in evidence) as a Minister defends a Ministerial measure; and the "affixed judgment of a Department" is in my sense a very qualified judgment from the point of view of complete and full approval. With those modifications I should

say

Mr. *J. W. Lowther*—continued.

say that probably the House of Commons receives the scheme in the sense defined in those lines.

3260. My question was whether the statement of Mr. Gladstone in 1874 is not absolutely a correct statement of the present view of the House of Commons upon schemes now?—No, I think it requires considerable modification.

Mr. *Donald Crawford.*

3261. Those remarks of Mr. Gladstone were made 20 years ago, were they not?—So I understand.

3262. And I understood you to say in your evidence-in-chief, that you consider that the position has considerably changed since then?—Very much changed as far as I can gather and from what I know of the past, not by direct knowledge, of course.

3263. I am not sure if I understand what Mr. Gladstone's speech means; but if it means an entirely independent and free exercise of judgment after the case comes to you, do you consider that you are in a position to do that, to exercise that free judgment?—No. I have tried to explain that if the Education Department were to exercise a free and independent judgment upon schemes consisting of perhaps 100 clauses with a view of really considering whether they were right or wrong, the Department would have to possess a staff completely equipped with the same kind of knowledge which the Charity Commission have in order to form their judgment at all; and to have two such staffs, one on one side of Whitehall, and the other on the other side of Whitehall, would obviously be what no Government or House of Commons would tolerate. Therefore, the Education Department's judgment is reduced very often, practically, to a nullity.

3264. Would it not be a right paraphrase of your approval to say that in many cases when you write "I approve," you mean to say "I cannot take the responsibility of disapproving"?—It, practically, comes very much to that.

3265. Then if you, as Minister, are to be held responsible for schemes, you do not consider that you have the proper means of fulfilling that responsibility?—Well, I have to do my best. I cannot wreck the scheme by disapproving, or run the risk of making recommendations to the Charity Commission which they might possibly not accept, which would bring the scheme to an end for the time being; and, therefore, I (like, I suppose, my predecessors) make the best of what I think is a most unsatisfactory situation, and then, no doubt, when called upon, would do my best to defend the scheme.

3266. I understood Mr. Lowther to suggest in some of his earlier questions that while the details were, perhaps, necessarily settled in the Charity Commission, in matters of policy your hand was really free; now, would you assent to that proposition?—So far as you can draw (and, no doubt, you can draw) a distinction between matters of policy and matters of detail, I do not agree at all; because all the important matters of governing bodies and the fees and scholarships, and all the other like matters which are contained within a scheme, have been settled and are publicly known before they come to me at the Education Department.

Mr. *Donald Crawford*—continued.

3267. You have just said, I think, in substance, that you do not hold your hands quite free in questions of policy?—No, because a large number of matters of policy have already been decided.

3268. If you were free in questions of policy, would not one of the most ordinary exercises of judgment of a Minister be to decide whether certain important clauses were or were not to be inserted in a scheme?—No doubt, if a whole scheme could be reviewed, as it would be reviewed if it were a draft of a Bill, in one's own office, one of the first things to do would be to consider whether such-and-such important clauses should be modified or inserted, or not.

3269. And if that question is practically taken out of your hands by a standing doctrine of the Charity Commissioners, that a clause is not to be repeated which has once been rejected by either House, does not that cut at the roots of your control in matters of policy in relation to the schemes?—If either House of Parliament were frequently to strike out clauses, and if the view were taken that any such clause could not be reinserted, no doubt it would affect my position and the whole condition of future schemes altogether.

3270. Perhaps there may be more important illustrations, but you gave as one illustration the question whether assistant masters should be appointed by the head master or by the trustees?—Yes, or by the head master in concert with the trustees, or subject to the approval of the trustees.

3271. That is to say, by the master or by some other method; if you, as Minister, were to come to be of opinion that a clause giving it, say, to the master in concert with the trustees instead of to the master alone was a desirable clause to introduce in a certain class of schemes, is it in your opinion at present easy to give effect to that policy?—I could no doubt take upon myself the responsibility, in connection with the schemes which come over to the Department, of sending back a clause for alteration in that particular; but I confess I think that if I once began that course I should enter upon a path which might lead to great difficulty, because there might be other educational matters where I should desire alteration. As I have already pointed out, there is no staff at the Education Department really able to grapple independently with these things, and for that reason it would be a most difficult course for a Minister to enter upon.

3272. Then, would that be your only difficulty, or would you also apprehend the possibility of an undesirable conflict of view between you and the Charity Commission on any point?—Well, it would be most undesirable in many ways if two Government Departments got into conflict on these various educational points.

3273. And you have no means of making your view prevail except by rejecting the scheme altogether?—I have no means of making my view prevail; I cannot compel the Charity Commissioners to accept the declaration I may remit.

Mr. *Donald Crawford*—continued.

3274. You have no power at all to compel them to accept the declaration?—No, they can refuse and drop the scheme.

3275. I observe one of the references which you yourself have made, and I think other witnesses, is to Clause 40 of the Act of 1869; it has always been assumed that the Commissioners may drop the scheme, and I assume it must be rightly so assumed; but it is open to another interpretation; the clause reads; "Where a scheme is remitted with a declaration the Commissioners may either proceed to prepare another scheme in the matter in the same manner as if no scheme had been previously prepared, or may submit for the approval of the Committee of Council on Education such amendments in the scheme as will bring it into conformity with the declaration"; the clause appears to read in the alternative of proceeding with a new scheme, but not of dropping the scheme; is not that so?—But you know that proceeding with a new scheme involves advertising for a certain number of months and a great deal of delay.

3276. You mean that it would have to be done from the beginning?—That I understand.

Mr. *Jesse Collings.*

3277. With reference to a question of Mr. Lowther's, who spoke of schemes being subject to the opinion of the House, what means have the House of knowing anything about schemes, except those which are opposed and consequently come before it?—They have no knowledge at all, unless during the two months that we advertise the scheme petitions are laid before us with a view of bringing the scheme before the Houses of Parliament.

3278. Then about what percentage of the schemes issued actually come before the House of Commons at all; at any rate it is a very small percentage?—Of course, I can only deal with my own experience; the secretary of the Department perhaps might give fuller statistics; but I think I am right in saying that 61 schemes have come to me, of which about, roughly, 20 are not yet approved, but that as yet not one of those which have been approved has gone before Parliament at all. I am not now speaking of the Welsh schemes, but of the others, the English schemes.

3279. May we take it that a very small percentage of all the schemes finally settled ever find their way before the House of Commons?—Yes; I think there is no doubt about that.

3280. A scheme has all the power of an Act of Parliament?—Yes.

3281. It might be described as an Act of Parliament which has received no second reading, has not gone through Committee, nor been subject in any way to the purview of the House of Commons?—Yes, I think that is so with reference to many schemes.

3282. Might we take it, therefore, that the Charity Commissioners have the power to make an Act of Parliament of which the Members of Parliament, excepting they inquire, know nothing?—Yes, the Charity Commissioners, when they are combined with the Education Department.

3283. Mr. Lowther submitted to you a case (I am speaking now of the Welsh Act) in which two schemes, one by the Charity Commissioners, and one by the Joint Education Committee, would clash?—In certain points.

Mr. *Jesse Collings*—continued.

3284. In certain points. I did not clearly understand your reply; but is it not a fact that the law gives preference to the scheme of the joint committee?—No, there is no preference in the matter. The scheme comes over, as I say, with perhaps 90 or 95 per cent. of the clauses exactly the same, both for the Charity Commissioners' scheme and for the Joint Education Committee's scheme. In certain clauses there are alternatives, which, as a matter of fact, when they are the joint committee's alternatives, have been put in italics; but there is no preferential claim on either side. The Education Department have to decide which of them they will adopt.

3285. Is it not a fact that under Section 11 of the Act the powers of the Charity Commissioners in initiating and establishing schemes are suspended in favour of the joint committee of the County Council?—I speak rather hesitatingly about this; but I think what that means is that they could not under their old powers begin initiating a scheme for a grammar school in Wales in the old method while the Welsh Intermediate Act was running.

3286. I wanted to clear up this question of procedure under the Act. I mean, supposing that the Charity Commissioners stand firm by their scheme, and the joint committee refuse to give way, is it not the fact that under Section 11 the Charity Commissioners have no power to override the scheme of the joint committee under the Welsh Education Act?—No; I do not think Section 11 has any bearing really on that point. It merely suspends powers under the Endowed Schools Acts, while this other method of the Welsh Act is running.

3287. Is it not a fact that under the Welsh Act, the Charity Commissioners and also the joint committee have power only to deal with educational endowments?—Yes, that is so.

3288. They have no power to deal with non-educational endowments?—No.

3289. Such as the Commissioners in England could deal with under Clause 30 of the Act of 1869?—It is an Educational Act. There will, I understand, be cases in which they might, with consent, transfer what are now being used for other purposes to education.

3290. But they have not the wide powers under this Act of taking absolutely non-educational charities, and apply them for the purpose of education under the Welsh Intermediate Act?—I am afraid you are rather carrying me beyond my depth in these matters.

3291. My object is to know whether under the Welsh Education Act, the Department have power to sanction a diversion of non-educational charities to the support of endowed schools under the Welsh Intermediate Education Act?—I understand that where consent is given they have that power.

Chairman.

3292. You are speaking of the Education Department?—Yes; that they have the power to sanction schemes where that process is gone through.

3293. Might

Mr. *Jesse Collings.*

3293. Might I call your attention to Clause 12 of the Welsh Act, because this is on an important part of the procedure; I simply want an explanation of the powers of the Department under that clause, the first sub-section?—I have the section before me.

3294. Does it not state that "an educational endowment within the county of a joint education committee means any educational endowment;" and so forth?—Yes; that is to define what educational endowment in a county a joint education committee may deal with, and if there is any doubt as between two counties, the Charity Commissioners decide the question.

3295. And they can decide that a non-educational endowment can be reckoned an educational endowment under this section?—I do not think that this section bears on that at all.

3296. Mr. Lowther asked you some questions with reference to the action of the Department touching non-educational endowments and vested interests, and whether or no a charity is a fit endowment to be applied for the purposes of education?—I do not remember Mr. Lowther asking me that.

Mr. *J. W. Lowther.*

3297. I asked whether the decision of those points were not the initial stages of the scheme?

Mr. *Jesse Collings.*

3298. The question I want to ask is, does the decision on these points come within the powers of the Department after they have been settled by the Charity Commission?—I should say, as a matter of practical fact, they do not. We have no apparatus for inquiring into those things, and we accept the matter as it comes to us.

3299. For instance, do you ever send down and institute a local inquiry to know whether a charitable endowment has been taken for an educational edowment, and in the opinion of the locality certain vested interests have been touched or certain persons aggrieved?—Practically, we have no machinery for work of that sort at all.

3300. My object in asking the question is to ascertain whether the Education Department have the means of affording any protection, extra protection, over and above what the Charity Commissioners afford to the safeguarding of vested interests and to persons who may think themselves aggrieved?—Leaving outside for the moment, as I have tried to do during all my evidence, questions which are referred to the Judicial Committee, I can say that, practically, we have no machinery for inquiries of that sort, and never conduct them.

3301. I think we understood you to say that all schemes under the Welsh Act are initiated by the joint committee unless they ask the Charity Commissioners to initiate them?—The joint committee have power to lay the heads of the scheme before the Charity Commissioners; and I think I am right in saying that that has been the course taken by all the joint committees in Wales.

3302. And those joint committees, although partly appointed by the county councils and partly by the Lord President, are practically

Mr. *Jesse Collings*—continued.

under the control of the county councils?—I should say, speaking from my non-official experience as chairman of one of these committees, that in drafting our scheme with the assistance of the Assistant Commissioner, who had a right to sit with us, but of course not to vote, we constantly felt that the approval of the county council which gave a large part of the money was a very essential matter for us to consider with a view to the future.

3303. For how long are the council members of the joint committee elected?—They are elected once for all; because the idea was that the Act would not run for more than three years at first; and it has since been renewed.

3304. Then in any case, no matter what the legal powers of the county council over the joint committee are, they have always the power of future election of different men if the action of the men whom they have elected has not been satisfactory?—Well, they have not that power, because the idea was that these three men would only last three years. They will last a little longer, not much longer now, because the schemes are very largely completed, though there are some of the smaller endowments not dealt with, and therefore they may last longer than some people would expect; but they are not re-appointed by the county council.

3305. May we take it that the county councils have considerable influence, which influence is recognised by your Department?—The county councils certainly have great influence on the schemes, because they hold to a large extent the purse strings.

3306. Now, you spoke in your evidence on the last occasion about the necessity for inspection, the giving powers to the Charity Commissioners to inspect schools which have been set up under their several schemes?—I expressed my opinion that it was very desirable that there should be opportunities of educational inspection of schools set up under schemes; and I further said that, if what I thought the best system could be adopted, that inspection might be adopted under a committee which represented the three educational Departments of the State, the Science and Art Department, the Education Department, and the Charity Commission, so far as it is an educational Department.

3307. That, in your opinion, would represent a considerable additional expense connected with the Commission?—Well, of course, not necessarily. I suppose the expense of the inspection might be paid out of the funds of the school; but I certainly think that inspection well done is an almost necessary duty of the State in reference to the secondary schools under the schemes in this country.

3308. Now, with reference to your answer to Question 3055, might I ask you what powers an inspector would have over an endowed school set up under any scheme?—I am afraid that if you ask me as to the actual powers which such an inspector may have under the Charity Commission with its existing powers, that is a question which I am hardly able to answer myself. It is not a question for the Department, but a question as to the actual powers of the Charity Commission under their Acts.

3309. But you spoke very strongly in favour

Mr. *Jesse Collings*—continued.

of such inspection, and I am wishing solely to see what would be the outcome of it. In the case of the schools under the Welsh Act, of course they have a Treasury grant, and therefore the Treasury, and probably the Charity Commissioners, would have power to withdraw it if the wishes of the inspector were not carried out; but, speaking generally, what would be the good, in your opinion, of inspection by the Charity Commissioners over schools which received no Government grant; will you tell the Committee what you think would be the uses of that power which the inspector would have?—I think that if the grammar schools of this country under scheme were efficiently inspected by really capable inspectors, the mere publication of parts of their reports alone would be of the highest possible value in leading these schools, if the inspection were really a good one, to improve themselves in consequence of the reports which they read; but, apart from that, I take it that powers could be put into the schemes enabling these inspectors to go and call attention to the fact that possibly some part of the scheme was not being carried out, and to give that advice which all good head masters extremely value if it comes from a really competent man.

3310. That is the explanation that I wanted you to give; I did not quite understand it. Then we may take it that the reports of the inspector would simply be in the form of advice to the governors of the school, but that there would be no legal power to enforce anything that he might choose to wish altered?—I take it that if he reported that some portions of the scheme were not well carried out, there would reside powers in the Charity Commission to take steps that they should be.

3311. I wanted to understand, in case the Select Committee should recommend what you so highly approve of, in what form any powers could be given, or how could a body have powers over, say, a local authority who are governors of a school, or any other governors of a school; what legal powers could they have; I am assuming cases where there is no government grant of any kind?—That is a question which I think would be more appropriately put, as it deals with the existing law, to one of the Charity Commissioners themselves, because, you see, it does not come under my Department.

3312. You said, in answer to Question 3058, that the attitude taken by the House of Commons as regards the Charity Commissioners was not good for the purposes of education; might I ask in what respect; what was in your mind?—What I intended to convey by that was this, that a great deal of the criticism in the House of Commons has been directed to matters of the original intentions of donors and to the composition of governing bodies, and matters of that sort, all matters of great importance, and which, of course, can quite legitimately be raised in the House of Commons, but in my opinion the purely educational work with regard to the secondary education of this country has not received so much attention in the House of Commons as perhaps it ought to have if these other more burning questions, if I may say so, had not taken precedence; and the result of

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that is that I do not think the Treasury has always seen very clearly the great importance of the educational work, pure and simple, which might be done under the Endowed Schools Acts. If that had been so, if the Acts were rather more satisfactory than I consider them to be, a great deal more attention might have been concentrated on the purely educational part of this work, to the great advantage of everybody concerned.

3313. Of the work of the Charity Commissioners. I am not speaking of general secondary education, but I am speaking of the action of the House of Commons with reference to the work of the Commission?—Yes; but, you see, a large part of the work of the Commission is directly concerned with secondary education, because wherever they deal with an educational endowment they are dealing, very often, at any rate, with secondary education, and I think that that particular part of their work, I mean the part which is outside controversy, has been rather put in the background, and there has been nobody to take it up and press it forward, because other very important matters were to the front.

3314. Then, as Vice President, do you look upon schemes of the Charity Commissioners wholly, or almost wholly, as schemes to advance secondary education?—Well, I think they largely ought to be; not wholly, of course, because there is the question of their relation to elementary education, which is of the highest possible importance; but they ought to be for the furtherance largely of effective secondary education in their own particular localities.

3315. Might I ask a question with reference to your answer to Question 3059; might we take it that the present fashion or method of reporting matters connected with the schemes is an unsatisfactory one; that it is supposed partly to be done by the Department and partly by the Charity Commissioners?—I think it is certainly a misfortune that when a scheme is, as it is, the product partly of the work of the Charity Commission, and at any rate of the approval of the Education Department, some method could not be devised by which the whole of the stages of the scheme from beginning to end should be reported upon in the same report. It is part of the difficulties which I have alluded to in various ways.

3316. Then, in connection with that answer to Question 3059, and your previous statement, might we sum up roughly your evidence on that point by stating that this dual control or dual effort, or dual action, whatever you please to call it, of the Charity Commissioners and the Education Department means considerable delay and some waste of effort, and is not satisfactory?—I think it involves unnecessary delay. I do not know that there is much waste of effort, because there is extremely little effort on our side as a rule; but I think, on the whole, looking to the future, that it is not a satisfactory machinery.

3317. In answer to Question 3090 you seem to convey that, in framing schemes, precedents as shown in former schemes would go a long way to guide the framing of future schemes?—I said that

Mr. *Jesse Collings*—continued.

that there is a very large body of precedents at the present time contained in the various schemes that have been carried. How far public opinion in the future may endorse, or not endorse, all those precedents it is not for me to say; but I agree that much has been done which is most valuable in the way of precedents; and by that I mean that certain members of the Charity Commission have a large experience dating from a long time back in reference to educational matters, which, I think, must always form an important body of knowledge, which will be useful in all the future stages of our educational work in the country.

3318. Are you not of opinion that a precedent which is good in one locality might be mischievous in another?—I think that it quite possible.

3319. And, therefore, is it your opinion that a central body dealing generally with precedents is the best body to frame schemes where precedent so largely comes into operation?—I have rather debarred myself from offering evidence as to matters of policy.

3320. You were very strong about the value of precedents; I wanted to get out whether they were not mischieveous when applied generally?—I quite agree that some of the precedents may be applied most mischieveously; and, therefore, might in particular cases do much more harm than good; but there are other precedents which may be extremely useful and valuable.

3321. Then taking past schemes, if local authorities had had the framing of the schemes, would not precedents in each locality be more valuable than general precedents; in other words, would not local authorities be more likely to meet the requirements of a locality than a central body?—Well, there is a large body of information with regard to education at large apart from the particular needs of localities which, I think, central bodies hold in their hands, or in their minds, which will also be of considerable value in this country.

3322. Speaking as Vice-President, having schemes coming before you, might I ask if those schemes had been initiated by localities in England as they are by joint committees in Wales, would they not, in your opinion, have been more in accordance with the wishes of the locality than they are now?—I think that I will venture only to say this, without answering the question directly, that from my unofficial experience as chairman of one of these joint committees in Wales, we certainly found that with an assistant Commissioner sitting with us as a sort of go-between from us to the Commissioners, and from the Commissioners back to us, many matters of local opinion and information were brought from a representative body to the Commission, which led them to meet us in a variety of details in connection with these schemes; and I imagine that the information they obtained modified their attitude probably in many matters; and that information came to them in a way which, perhaps, no amount of ordinary public inquiry by them could have possibly conveyed.

Mr. *Howell.*

2323. Generally, I understand you are in favour in your evidence of more direct control by Parliament?—I have tried to avoid giving any opinion as to future policy; I rather have dealt with the past than the present state of things.

3324. Has not that been the general tendency of your replies that Parliament should have more direct control?—Well, I am afraid I ought to say that I came here rather under the condition of not offering opinions as to the future, as far as I could avoid it.

3325. You have been asked to-day with regard to the opinion expressed by Mr. Gladstone some time ago on a point similar to that before the Committee, might I ask whether your attention has been called to some observations made by Mr. Disraeli in the House of Commons with regard to an analagous subject, the transference of the Poor Law Commission to a Department of State, in which he said, "The general business of the country must be brought under the control of the House of Commons . . . . . When we look at the nature of our Parliamentary Constitution we shall find that attempts to carry on the business of the country without the interference of Parliament, the palpable interference of Parliament, have always proved a failure"?—Yes; I have seen that passage of Mr. Disraeli's; and I think there is no doubt that he felt, as the country felt, that between 1834 and 1847 the Poor Law Commissioners, who during those years had acted as an independent body, had suffered a good deal from the want of a representative Minister; and, of course, the actual Bill then under consideration when Mr. Disraeli spoke, was for the purpose of transferring the Poor Law Commissioners, so that they should be under a responsible Minister; and what Mr. Disraeli said about the House of Commons meant the control of the House of Commons through a responsible Minister.

3326. Has your attention been also called to a sentence in a speech of Sir James Graham, in which Sir James says: "I must repeat that the result of the experience of the last 10 years convinces me that Lord Althorp's original opinion was well-founded, and that it would have been better had the responsibility been direct to this House in the first instance by an officer here representing the Department"; do you agree with that?—Well, I have no doubt that the ultimate result has shown that Sir James Graham was right in what he said, and that probably Lord Althorp's original suggestion was also right.

3327. As a matter of fact, so far as you are aware, is it not the case that these opinions were brought about by the fact that whilst they had endeavoured to avoid factious or political opposition in Parliament they had absolutely failed in this particular?—The idea was, I believe, to make them an independent, and what is called a non-political body, and that attempt broke down.

The Right Honourable The Lord WELBY, G.C.B. (attending by special permission of the House of Lords); Examined.

Chairman.

3328. WHAT is your experience in the public service?—I served very nearly 38 years in the Treasury, and during the nine last years of that time I filled the post of Permanent Secretary to the Treasury.

3329. Now, would you kindly give us some indication as to what are the precise relations of the Treasury to the Charity Commission?—The relations between the Treasury and the Charity Commission were, in my opinion, of the same character as those of the Treasury with other Departments of the Public Service. There has been some doubt upon this point, I think; but I myself have never been able to understand that our relations to the Charity Commission were of a special character. I think that the fact that the Charity Commissioners were appointed by the First Lord of the Treasury, and also that there is no recognised Minister to answer for and represent the Charity Commission, has perhaps led to an idea that there was a special relation between the Charity Commissioners and the Treasury.

3330. Now, taking those two points, what have you to say with respect to the appointment by the First Lord?—The First Lord of the Treasury is usually Prime Minister, and he has a large number of appointments in his gift; but I do not consider that the fact of the First Lord of the Treasury having the appointment of an office implies in any respect a right of interference by the Treasury in the Department to which he appoints differing in any respect from the power of control of expenditure which the Treasury has over every Public Department.

3331. Now with respect to there being no Minister responsible does that bring the Treasury into any more particular relation with the Commission than any other Department?—It is, of course, a difficult matter to describe when a Department has no direct representative in Parliament how questions in Parliament connected with the Department are to be met, and by whom they shall be answered. Arrangements are occasionally made which may lead to the idea that there is a special connection between such a Department as the Charity Commission and the Treasury. Take the case of the Estimates; the Estimates of the year are considered by the Treasury, in concert with each Department, for which an Estimate is presented to Parliament. Of course from the moment the Treasury has passed that Estimate to a certain extent it has a responsibility for it. In most cases where there is a Minister who represents the Department in Parliament he defends the details of the Estimate in Parliament; but where there is no Minister, and the Government is called in question, then I think it is very probable that the duty of defending the Charity Estimate would fall upon the Treasury. I say only when the Government is called in question; because under other circumstances no doubt the Parliamentary Commissioner would and does take that task upon himself. I only bring in the Treasury in such a case on the supposition that the Government is called on in the House of Commons to express an opinion upon the items of the Estimate.

Chairman—continued.

3332. Then are we to gather from you that when you were at the Treasury you would not have suggested to your chiefs the acceptance of any such special responsibility?—I should never have suggested to my chiefs that any duty lay upon them of accepting special responsibility for the Charity Commission.

3333. Of course, with regard to the Estimates, for some other what I may call semi-detached Departments, the Minister sometimes has to answer for and defend them; could you give us any illustrations of those Departments?—Yes. Take such a case as the Civil Service Commission. The Civil Service Commission is constituted by Order in Council, and the Commissioners, in the conduct of their examinations, and in the decisions which they give as the result of their examinations, are, I consider, absolutely independent; no officer of the Government has any right or claim to interfere with them in the discharge of their duties after the rules under which they act have been laid down; and I should say that the Civil Service Commissioners, to my knowledge, have been most rightly, most properly, very jealous on that point; but if any question touching the Civil Service Commissioners is raised in Parliament, the Financial Secretary of the Treasury or the Chancellor of the Exchequer always answers.

3334. I suppose from your experience in the House, and probably you would find this in the Department, the Treasury is looked upon to a certain extent as a kind of maid-of-all-work in these matters?—That, no doubt, is very often the case. Where a question is put down or a Motion made, as to which it does not appear very clear what Minister shall reply, it does very often fall to the Treasury, because somebody has got to reply.

3335. As a matter of convenience somebody must do it, and the Treasury has to do it?—Yes.

3336. Then, with respect to new expenditure?—There, of course, the responsibility of the Treasury is very great, but it is no greater than it is in relation to any other Department of the State; the constitutional rule being that no new expenditure of any kind can be incurred without the consent of the Treasury being obtained.

3337. And no new post can be created?—No new post can be created, and no salary can be created.

3338. And no allowances increased?—And no allowances increased. The ordinary form of stating it is that no measure can be taken by a Department increasing or tending to increase the public expenditure without the sanction of the Chancellor of the Exchequer. But that rule is universal, and it applies in as full a degree to the Secretary of State for War or the First Lord

Chairman—continued.

Lord of the Admiralty, say, as to the Charity Commissioners.

3339. It applies universally; it is a universal rule without exception as regards the departments of the State?—I should say that it is a universal rule without exception.

3340. Then do you wish us to infer that in your opinion the Treasury has no special connection with or relation to the Charity Commissioners in the sense I have mentioned?—I do not consider that the Treasury has any special relation to the Charity Commission or responsibility in respect to it beyond that which it has in regard to every other department under the rule which I have just stated regarding expenditure.

3341. Then passing from that point, it has been suggested before the Committee that the Charity Commission have found some difficulty in getting more supplies from the Treasury; have you anything which you wish to say to us on that?—I observe that in the evidence which has been given, one or two expressions have been used to the effect that the Charity Commission not having a Minister at its head suffers somewhat from what I think has been called by one witness a want of momentum; and another witness I think has spoken of there having been differences between the Charity Commission and the Treasury, with the result that the Charity Commission has not been able to obtain all the assistance in the way of money that it thought desirable for the public service. On that I should like to say this: according to my experience of the relations between the Charity Commissioners and the Treasury, the Treasury has for many years felt it its duty to watch narrowly the Charity Commission's expenditure, because, as no doubt many members present will recollect, during a long time there was a very strong opinion expressed in Parliament that the taxpayer ought not to pay for the Charity Commission.

3342. By "Parliament" you mean the House of Commons?—I mean the House of Commons. You will remember that on one occasion the Government were beaten upon that question if I remember right, and year after year the Government of the day was pressed to bring forward a measure under which the charities would contribute towards the expense of this central administration.

3343. I suppose the Treasury considers itself generally under obligation to have regard to what has been expressed as the opinion of the House of Commons?—Certainly, especially on financial subjects; and in this particular case the opinion was expressed very strongly, and two or three Bills were brought in that were not carried through. Up to the present I do not think we at the Treasury could say that the House of Commons has abandoned the idea that when opportunity offers some such measure should be carried. At the same time I fully admit that the difficulties of carrying any measure of the kind have been so great that for several years past, 10 or 12 years, the question has fallen into abeyance, and therefore I am not bringing that forward just at the present moment as any very substantial reason for a withholding on the part of the Treasury from the Charity Commission the assistance that it might require.

Chairman—continued.

3344. On the whole, has there been the view held at the Treasury that on their merits the proposals of the Charity Commissioners have been fairly reasonable?—With regard to their establishment, I think I can distinctly say yes; the Treasury have found their proposals affecting the main part of their establishment reasonable. I do not think that within my recollection (and I confine my recollection more particularly to the last nine years while I was permanent Secretary of the Treasury) there has been upon the point of the clerical organisation of the Charity Department, of the clerical assistants, or the subordinate assistants of the Commissioners, any real difference of opinion between the Treasury and the Commission. In fact most requisitions that have been put before the Treasury by the Charity Commission have been granted.

3345. Has there been any difference of opinion between the Treasury and the Charity Commission?—Yes, a grave difference which originated in this way; and that, as far as I can remember, is really the only difference.

3346. Before you go into that, may I ask is it a difference that more momentum would have removed?—No, I do not think that momentum would have removed it; not momentum in the ordinary sense of the power which a Minister has of coming in and discussing a matter with the Minister at the head of the Treasury, for the reason which I will just now proceed to give.

3347. Now, will you proceed to explain the difference?—For some time the Treasury had the opinion that the Charity Commission was somewhat top-heavy; that is to say, that it was very unusually manned at the top.

3348. Might we add to "top-heavy" the words "somewhat antiquated"?—According to the Treasury view, somewhat antiquated. For instance, they had three permanent Commissioners, two Endowed Schools Commissioners, and, at the time I am speaking of, one for the London Parochial Charities besides the unpaid Parliamentary Commission. Practically that came as far as the money part of it goes, which, of course, is what the Treasury look at, to six Commissioners.

Mr. *J. W. Lowther.*

3349. The City Parochial Commissioner was on a separate fund, was he not?—I believe he was paid out of the fund. Several years passed by, and, as the honourable Member reminds me, I think it was eventually repaid. It was borne in the Estimates, and I remember many years passed by before it was repaid.

Chairman.

3350. There were five Commissioners; putting out of sight the one for the City of London Parochial

Chairman—continued.

Parochial Charities, there were five Commissioners?—Yes; and the Treasury had, I think, before 1887, the period to which I am going to refer, called attention to the point, and expressed the opinion that, in their opinion, there were too many Commissioners. In 1887 a communication took place between the Chief Commissioner and the then First Lord of the Treasury on the subject of some alteration in the organisation of the Commission.

3351. Who was the First Lord of the Treasury then?—Mr. Smith. These alterations were agreed upon, if I recollect rightly, practically between the Chief Commissioner and the First Lord of the Treasury on behalf of the Treasury, and they found their fulfilment in an Act that was passed in that year; but the First Lord of the Treasury looked into the question himself. He came to the conclusion that the time had come when there ought to be an understanding between the Treasury and the Commission as to what the number of Commissioners should be; and in the year 1887, just at the time when this Act had become law, he passed a very important minute on the subject, in which he took, by way of expressing his strong opinion, a rather unusual course. He recorded in this minute his opinion that the Commission ought to be reduced to three. I will give the words afterwards, because they are of importance, but that is practically the effect, that three Commissioners ought to suffice.

3352. The First Lord of the Treasury of that day took whathave you described as being a rather unusual course, and issued a minute indicating that, in his opinion, the number of Commissioners was excessive for the work they had to perform?—Yes. What I mean by its being an unusual course is this. The First Lord of the Treasury nominates and appoints the Commissioners, and, of course, whenever a vacancy occurs in the ordinary course he would exercise his own judgment as to filling up the post. Within my experience it was rather an unusual course, and it indicated a strong opinion on his part that he should put on record and send in to the Treasury, so that it might be an instruction to the Treasury, his personal view as to an understanding being come to with the Charity Commissioners; that understanding pointing to an eventual reduction in the number of the Commissioners.

3353. Such an expression of opinion from the highest authority would, of course, carry with it very great weight in your department?—Very great indeed.

3354. And outside your department?—This minute was communicated to the Charity Commissioners, and of course they would answer for themselves; but I think undoubtedly, both in the Treasury and in the Charity Commission, such an expression of opinion would carry weight.

3355. So far as the Treasury was concerned, was any action taken upon that minute by the Charity Commission?—Well, I do not think the Charity Commission took any action upon it; at all events they did not make any formal reply to it at the time, or for some time after it was on record at the Treasury.

Chairman—continued.

3356. Did the Charity Commission come a few years afterwards with any further proposals for developing and improving their organisation?—As far as I recollect, the question then slept for several years; and it was in 1891 that the question next came up and that some further proposals were made, by the Chief Commissioner again, to the First Lord, who was still Mr. Smith; and then Mr. Smith referred to his Minute of 1887; and I think his view at that time was that the Charity Commission should be pressed on the subject of the minute of 1887, and that there ought to be no longer delay in coming to an understanding with them.

3357. I think Mr. Smith's health was very much failing at that time, was it not?—I think this request was laid before him by the Chief Commissioner in the early part of the Session, about March?—The First Lord at that time spoke to me about the matter; but he had got the pressure of Parliamentary business upon him, and he put the request aside for the time being until he had leisure to attend to it in connection with what he had said in 1887; but after he fell ill he sent me a message that he would like very much to come to a decision on two or three outstanding questions, of which this was one of them; and he then finally decided to take an independent opinion on the proposals of the Chief Commissioner. He referred then to a body that had lately been constituted by way of alleviating and removing the friction that occasionally takes place between the Treasury and other departments on the subject of expenditure. I must diverge a little to explain what this body is. In 1886 an important Royal Commission was appointed to report on the organisation of the Civil Service, and of course it came to their knowledge then, what must always be the case, that occasionally friction arises between the Treasury and departments; difference of opinion, I need not say "friction"; and that there was no means by which that could be removed, except by appeal to the First Lord of the Treasury or to the Prime Minister. The Commission thought that it was very desirable to endeavour to find some method by which such differences of opinion could be reconciled, and they recommended that there should be a Committee appointed consisting of permanent heads of department to whom such differences of opinion between the Treasury and the other departments should be referred, and that that Committee should as it were become an advising Committee to the Treasury. The Treasury adopted generally this proposal of the Royal Commission, and created what is called the Consultative Committee. This Consultative Committee is thus composed: The permanent secretary of the Treasury is always upon it and he is chairman. There is always placed upon it the head of the department which has made the request, and in addition three other permanent heads of department are placed upon it; and the difference between the Treasury and the requesting department is referred to this body

Chairman—continued.

body of five, and they report and advise the Treasury upon it.

3358. Among that body of five there are the appellant and the respondent as it were and three judges?—Yes. The voices are equal, and the voting is equal; therefore I would not call them judges, but they are members of the Committee.

3359. With impartial minds?—Impartial and independent members of the Committee, and who of course have in their own hands a majority. Well, this question of the additional staff which had been asked for by the Charity Commission was referred to this consultative committee, and they had also before them the Minute of 1887. The course they took was this: they unanimously reported that the demands that were made in the application by the Charity Commission were in themselves reasonable, and that provided an agreement could be come to between the Treasury and the Charity Commission on the subject of the numbers of the Commission (which being a subject on which the First Lord of the Treasury has spoken, it was hardly for a body of Civil servants to discuss), they advised that the request of the Charity Commission should be granted.

3360. So far as it was suitable for this consultative Committee to do it they endorsed the Minute of the First Lord of the Treasury of 1887?—Well, I think it goes as far as that. They did not feel that they could very well express an opinion as to what ought to be done under that Minnte; but taking account of this important expression of high opinion, they as it were tied their assent to the specific proposals which the Charity Commission had just made on to a proviso that the proposal might be granted subject to agreement was come to on the point raised by the First Lord.

3361. And the proviso was a condition so far as it could be a condition?—So far as it could be a condition. My reason for dwelling upon the intervention of the Committee is this: The facts as I have stated them appear to me to show that there really has been, except on this very important point into which the First Lord of the Treasury has entered, no great difference of opinion between the Treasury and the Charity Commission. There has been no unwillingness as far as I am aware on the part of the Treasury to grant the assistance which the Charity Commission has asked, certainly during these last years; and therefore I do not think that so far it can be said that the momentum to which allusion was made is not sufficient.

3362. Is that all you desire to say upon that specific part of your evidence?—Yes.

3363. Now passing to the general question, of course you are no longer connected with the Treasury?—I am not.

3364. Therefore you would wish, I suppose, to give us your own opinion and not commit the Department in any way?—Certainly.

3365. Would you give us the benefit of your opinion on the general question, first as to the point that has been raised before this Committee,

Chairman—continued.

the judicial nature of the business before the Charity Commission; is there anything that occurs to you upon that?—I should not like to express an opinion upon that point because of course I had no knowledge at the Treasury of the details of business before the Charity Commission. I am quite ready to accept the opinion which has been expressed that a portion at all events of the duties of the Charity Commission are of a judicial or semi-judicial character.

3366. Would you go so far according to the knowledge you have as to say that the judicial character is so high that the Commission ought to be entirely independent of the Executive Government as judges are?—No, because though I do not pretend to express any opinion that is worth having upon the amount of the special judicial importance of the decisions of the Commission, I could hardly put those decisions on the level of the duties of the higher judges. I should, however, be prepared to go as far as this: So much of the work of the Charity Commissioners is of an administrative nature that I should think it better for them that there should be some Minister responsible for them in Parliament.

3367. I suppose from your experience you would say that Parliament is always more or less jealous of a public Department that is independent of the control of Parliament?—Certainly I think so, and I think that the Department suffers from that jealousy; that there are difficulties in passing unobjectionable measures if some person or other in the position of a Minister who can speak with authority, and is in touch with the House of Commons itself, is not responsible for them. It seems to me that there is perhaps too much dread expressed of the effect of placing a Minister in a connection with a Department like the Charity Commission. I was giving the Committee just now the case of the Civil Service Commission. The Civil Service Commission has been in existence now very nearly 40 years; they are jealous and most rightly jealous I think of their independence; at the same time they are distinctly represented by a Minister in Parliament, and I can say that I have never known any difficulty arise on that account. Undoubtedly in such a case as that the Minister and the Department are very often in communication; the Department has the benefit of understanding from the Minister that he sees a difficulty in defending what the Department is doing. The Minister as far as I know has always felt the necessity of jealously maintaining the independence of the Civil Service Commissioners, and I have never seen any difficulty arise from the fact that there was such a channel for Parliamentary interference. I think there are other cases; they are not all on all-fours with the Charity Commission. I will take one. There is a most useful body which was instituted many years ago specially to fend off Parliamentary interference and influence from the great system of loans for public works. The Committee are probably aware that the apportionment of loans and decisions on the grant of loans in the

public

Chairman—continued.

public service, in Great Britain at least, is entrusted to the Public Works Loan Commissioners. The Public Works Loan Commissioners are a body of absolutely independent merchants and bankers of the City of London; they have existed for over 70 years, and as I say they were created and have been maintained simply I believe because they were supposed to secure this great financial fund from immediate Parliamentary pressure. They are unpaid, they give their services gratuitously, and so far they are independent of the Treasury; but the Chancellor of the Exchequer answers for them in Parliament, and I have never known any real difficulty arise from that circumstance. I do recollect a case even with them when Parliament was disposed to question the policy which they followed with regard to one class of loans. In this case the House of Commons and the Commissioners took rather different views of the manner in which effect should be given to a certain Act of Parliament. The Minister, the Chancellor of the Exchequer, practically acted between Parliament and the Commission, and certainly no difficulty or strain occurred. I believe that there has always been a strong feeling on the part of Parliament that this body, even in cases where it did not give full effect perhaps to what the House of Commons might have thought desirable, were a most valuable body, thoroughly independent in endeavouring to carry out in its spirit the Act of Parliament; and as far as I can recollect the relations between this semi-independent body and Parliament have always been very good, and no inconvenience has come to my knowledge as resulting from the fact that the Department was represented in Parliament by the Chancellor of the Exchequer.

3368. I suppose your official experience would lead you to have no particular fear in the long run of the action of Parliament?—No. The conclusion I draw from my experience is that a department is more likely to suffer from anything that savours of an attempted independence of Parliament than from placing itself in connection with Parliament.

3369. Is there anything that you desire to add?—No, I think not.

Mr. *Howell.*

3370. Could you tell us whether the communications you referred to occurred in connection with the Peabody trustees on some questions of tenants?—That was not the case that I refered to; I think also with regard to that, now that the honourable Member refers to it, there was a question raised in Parliament about it.

3371. It was a question of tenure, freehold or leasehold tenure, was it not?—I think, if I remember right, the Public Works Loan Commissioners did not feel themselves able to make an advance under the Act, and I am not sure whether there had not to be an amending Act for the purpose.

3372. With regard to the minute which you referred to of the First Lord of the Treasury in

Mr. *J. W. Lowther.*

1887, was that minute based on an inquiry made by him or by an inter-departmental Committee, or upon what was it based?—It was based as far as I am aware on communications which took place between the Chief Commissioner and the First Lord. The Chief Commissioner was anxious to make some reforms in the organisation of his department, and in the course of the discussion of these proposals with the First Lord, this question of the number of the Commissioners came up.

3373. And did it refer to the Charitable Trusts Commissioners or to the Endowed Schools Commissioners?—It referred to the whole body; that is to say, as I understand the minute, it extended to the whole business of the then existing Charity Commission, and stated that in the First Lord's opinion eventually, I do not say at the moment, the whole of the business of the Endowed Schools Department and of the Charity Commission proper should be conducted by three persons. I ought to add in explanation of that that the First Lord did not lay that down as a decision *ex cathedrâ;* he expressed an opinion to that effect, and he might have been ready to modify it for reasons brought before him. It was only placing on record his own personal opinion to that effect.

3374. You are aware, of course, that the tenure of the Endowed Schools Commissioners is from year to year?—Yes.

3375. They only exist under an Act which must be renewed every year?—Yes.

3376. The tenure of the Charitable Trusts Commissioners is totally different?—Yes, during good behaviour.

3377. Did the abolition proposed by the Treasury minute of 1887 refer to any particular Commissioners, Charitable Trusts, or Endowed Schools Commissioners, or was it a general statement?—It is a general statement to the effect that he thought that the then number of Commissioners was in excess of the requirements of the public service, he hoped "by the provisions of the Act which sanction the extension for general purposes of the staff of Assistant Commissioners to prepare the ground for the ultimate reduction of the present number"; and that "at no very remote period, and when the subordinate staff is properly organised for the purpose, the number of paid Commissioners may be reduced to their normal number of three, and that such of the powers of the Endowed Schools Act as Parliament may see fit to retain may be permanently vested in the original Charity Commissioners."

3378. Then that contemplated, did it not, the total abolition of the Endowed Schools Commissioners?—Eventually, and the transfer of their powers to the Charity Commission proper.

3379. These cases which you have given us of the Civil Service Commission and the Public Works Loan Commission are cases which I understand you quote for the purpose of showing that there are departments which I think you have called independent departments?—Yes.

3380. Which

Mr. *J. W. Lowther*—continued.

3380. Which do not suffer from the fact that a Minister answers for them, although he has no control over their proceedings?—Yes; I adduce them in support of the opinion I give with some hesitation, but still the opinion that I have formed, that I should always prefer, for the good carrying on of the public service, that every Department should have a Minister to whom Parliament looks for defence of its policy and for any explanation of its acts.

3381. Then, so far as regards the defence of the Charity Commission, I think you have said that everything connected with the staff, the payment of the staff, the number of clerks, and so forth, is matter properly coming under the control of the Treasury?—Yes; that is to say, that no additions to the staff or increase of allowances can be made, without the previous assent of the Treasury; therefore, naturally speaking, the Treasury, having given such assent, and in the absence of any special Minister representing the Department, would very rightly defend it if called in question on the part of the Government before Parliament.

3382. You know, for instance, the sort of questions which are raised on Estimates; why a gentleman is drawing 5*l*. more this year than he was last year, and so forth; those sort of questions the Secretary to the Treasury would reply to?—At the present moment, the unpaid Commissioner, I think, explains them, does he not?

3383. I think the Secretary to the Treasury?—I always thought that the unpaid Commissioner gave any explanation of that kind. What I intended to convey is this: that whenever any action of the Charity Commissioners or any expenditure of theirs is actually called in question, then, I think, comes the time when it is convenient that there should be a Minister to explain.

3384. What I want to get at is this: the policy of the Department of the Charity Commission is answered for by the Fourth Commissioner; the details of the organisation of the Office are answered for by the Secretary to the Treasury; am I wrong in that supposition?—I had been under the impression that the details of the Estimate were explained by the Parliamentary Commissioner, but if the honourable Member says that the Secretary to the Treasury does it, of course he is right. But without dwelling upon any differences on that point, I should quite admit that the Treasury, having once assented to the Estimate, would be bound to defend the items of it.

3385. There are some other cases besides the Civil Service Commission, and the Public Works Loan Commission, are there not, of the nature of independent Departments, which are yet replied for by the Secretary to the Treasury?—Yes.

3386. Might I include in that number the National Debt Office?—Hardly; for this reason; the National Debt Office, it is perfectly true, is a Commission on which several independent members, men who are independent of Government, sit; but in reality the active member of the Commission is the Chancellor of the Exchequer; therefore he is responsible for the acts of the Commission; and therefore I should not quote that office as an example.

Mr. *J. W. Lowther*—continued.

3387. You do not think that is on all fours with the others?—No.

3388. May I say the Public Record Office?—Yes.

3389. The Registrar General's Office?—Yes; and I believe that there is always a question as to who answers in Parliament for the Registrar General, whether it is the President of the Local Government Board or the Home Office.

3390. And might I add the Friendly Societies Registry?—Well, with regard to the Friendly Societies Registry, the heads of that are pure officials, are they not? Perhaps the honourable Member would allow the National Gallery; I am not putting the Charity Commission on all fours with the National Gallery; the Chancellor of the Exchequer answers for the Gallery, but he never interferes in any way with the purchase of pictures.

3391. The Lunacy Commission?—Yes, I should think the Lunacy Commission is rather in the position of the Charity Commission; they do not quite know who answers for them, do they?

3392. We have it in evidence that the Home Office answers, although they have no control; that would correspond with your view?—Yes.

Mr. *Lawson*.

3393. With regard to what you have just said, may I ask exactly what are the relations, from an administrative point of view, between the Treasury and, say, the Civil Service Commission; are the Civil Service Commission independent in regard to their staff?—No, no more than the Charity Commission. Any addition to the expense of the Office, either in the creation of clerkships or an addition to the allowance, has to be sanctioned by the Treasury.

3394. That is a rule common to the Civil Service as a whole?—Yes.

3395. Who is the Minister who answers for that Commission?—The Chancellor of the Exchequer or the Secretary to the Treasury; but the Secretary to the Treasury only answers as deputy for the Chancellor.

3396. Has he any control over the Commission?—In their immediate duties of deciding on qualifications of candidates, conducting examinations, and naming the persons successful in examination, I should say none.

3397. And their work is practically confined to that?—Yes.

3398. Entirely; it is not parallel with the work of the Charity Commission?—No; I particularly said that I do not bring these forward as on all fours with the Charity Commission; you would probably not find another Office that would correspond precisely; but I bring them forward as cases of Departments the chiefs of which are, in their main functions, independent, and yet no difficulty has arisen through the defence of their action and the explanation of their acts being entrusted to a Minister.

3399. But, in fact, all these bodies which you have given us by way of example have a certain

Mr. *Lawson*—continued.

specified and limited work to do, and have not general functions which are comparable to those of this Charity Commission?—No, none of them that I know. I do not know about the Lunacy Commission; but none of the others have, as far as I know, judicial work to perform.

3400. The Lunacy Commission is a purely judicial body, is it not?—Not wholly.

3401. They have some functions of inspection?—Yes, but they have some judicial functions which used to be in the hands of the Court of Chancery, I think.

3402. With your experience would you say that other Departments have not a very large amount of judicial work to perform?—I hardly feel able to answer that question. Every great Department has work somewhat I think of a judicial character, the work of putting an interpretation on Acts of Parliament.

3403. Take the work of the Treasury; you grant the loans to public bodies; that is judicial, is it?—No, I should not call that judicial.

3404. You have to see that certain conditions are complied with?—Remember that we do not grant loans; it is the Public Works Loan Commissioners who do that.

3405. Take the case of county councils; the Treasury has certain well-defined powers with regard to them?—Yes, but I should call them financial rather than judicial duties. I should explain the Treasury position with regard to the county councils is really simply that of guarding the inheritance.

3406. Yes; but many Departments have to construe and interpret Acts of Parliament?—Yes.

3407. And is it not very hard to draw the line between that and what we may call the judicial work of the Charity Commission?—I do not know. Not knowing precisely what the work of the Charity Commission is I should not like to express myself too strongly about that. I can understand that in the case of a body like the Charity Commission, though it has a very large amount of administrative work, some of its functions may be of a more judicial character than is implied in the interpretation of Acts of Parliament.

3408. Do you believe generally in organising Departments of State under Boards, real Boards I mean, not nominal Boards?—No, I am not as a rule favourable to them. I say "as a rule" because there are exceptions.

3409. As a rule, do you prefer the typical organisation of a Parliamentary chief and secretaries under him?—I should say so, and that the *onus probandi* lies with the Department to show that a Board is for sufficient reason preferable.

3410. May we take it for granted that a Board is always more costly?—Yes; because you seldom have a Board of less than three; there are such cases, but as a rule you do not have them less than three; and those are sure to be three highly paid officers.

3411. And may one infer that it always involves a great waste of public time?—In ordinary administrative Departments. I would not say always; I can quite understand with regard to the Charity Commission, when any difficult case comes before them, the value of their actually discussing it at the Board, and I should not think that a waste of time.

3412. But in a Department of the other type, would not that be done by conference between particular officials and heads of the Department?—Certainly; I mean that replaces the Board in another Department.

3413. You would not have the formality of a Board but you would have an informal Committee practically?—In ordinary organisations, yes; but still, though I am very strongly in favour of the simple organisation of the great number of Departments, I say that there are exceptions.

3414. Are you prepared to make definite suggestions for reform or readjustment of the Charity Commission?—No.

Mr. *Freeman-Mitford.*

3415. I should like to ask you, in connection with the last question which you have answered, whether you do not think that in certain cases there is a great advantage in the impersonality of a Board?—That is one of the cases which I was reserving when I said that though I prefer the simpler organisation as a rule, there are cases in which I think a Board is preferable.

3416. Do you think that the Charity Commission would fall within the cases of the exceptions to which you allude, in which the impersonality of a Board would be valuable?—As far as I can form an opinion on the matter I should think it was so.

3417. You think that there would be a certain advantage in having a Board over an ordinary Department, with a political chief at its head and a permanent chief, as in certain other Departments?—Upon such information as I have, and from such experience as I have been able to gain of the Charity Commission, I think that they would be able to make a case out in favour of a Board rather than in favour of a Department organised as has been described.

3418. Make out such a case, that is to say as would commend itself to your approbation?—Yes.

3419. Then do you think also that there is a certain advantage in the absolute neutrality of such a Board; that is to say in there being no political colouring either of one side or the other in the Board?—Certainly, so far as they are civil servants, that is a matter of the first necessity; but apart from that, so far as they exercise any judicial functions, it is of the first importance.

3420. All civil servants are supposed to hold no political views, or at any rate to express no political views whatever; they are the general servants of the State and serve whatever party may be in power with equal loyalty?—Yes.

3421. But supposing that there were a minister belonging to a political party and distinctly

Mr. *Freeman-Mitford*—continued.

distinctly representing that political party at the Board, do you not think that that freedom from political bias would be in some cases hindered, or that that freedom would be interfered with?—I have confined myself in my answers to expressing my own view that no Department of the State should be entirely nnconnected with the Government of the day; that is to say, that such a relation should be established between them and the Government of the day, that they could always have a responsible Minister who can defend and explain their action in Parliament. How it should be carried out is another matter. It is difficult for an outsider to say whether an actual Chief Commissioner of Charities being a Minister would lead to inconvenience. But there are a great many instances (some of them I have quoted) in which a Department of this independent or semi-independent character is connected with and has a relation with a Minister who is in a position to explain their action.

3422. There is at the present moment a Parliamentary Commissioner at the Charity Commission?—Yes, but he is not a member of the Government.

3423. He is not a member of the Government technically; he is a member of whichever party is in power, is he not?—Yes.

3424. And therefore represents the Government on the Commission; is not that so?—Yes, I presume so.

3425. And answers for the Commission in Parliament?—He answers for the Commission in Parliament.

3426. Therefore there is distinctly a connection between the Department and the Government through that official?—Yes, but what strikes my mind is that the Department loses by not having a connection with the Ministry.

Mr. *Wickham.*

3427. Can it be said that the Civil Service Commissioners are in any way subject to the Minister who answers for them in Parliament?—I think not in relation to their special business.

3428. Then he is only allowed to help them, if help is wanted, in Parliament?—That is all.

3429. Then he really has less to do with the body that he helps in Parliament than the Fourth Parliamentary Commissioner of the Charity Commission has to do with the Charity Commissioners?—Yes; that is to say he takes no part in their current business.

3430. Then it would be possible to appoint a Minister to defend or to support the Charity Commission in Parliament without his having any control over their business?—I think that I have given instances in which that is the case.

3431. Now with reference to Boards; are not almost all the great Departments of State managed by Boards; is not the Admiralty?—We must draw a distinction between a political Board and simple administrative Boards. The Admiralty is administered by a Board.

3432. One of the objections that you gave to a Board, was that it contained a number of highly paid officials; but is not that so with all the Departments of State; that there are several or more than one highly paid officials?—Yes, but I think you would find that where there is a Board it consists of a number of co-equal authorities paid at the rate which heads of Departments receive, and they still require the ordinary organisation underneath them; that is to say the Board requires secretaries, principal clerks, and so forth, exactly as in the more simply organised Departments.

Mr. *Wickham*—continued.

3433. Is it not the case in most Boards that are not political, that the head officer has a higher salary than his colleagues; it is so at the Inland Revenue, I am pretty sure?—Yes, and the deputy, too.

3434. So that in that respect there is a similarity between those Boards and the great Boards of State like the Admiralty?—Yes.

3435. Have you any reason, from your great experience at the Treasury, to suppose that the Charity Commissioners have experienced such a difficulty in getting money that their action has ever been hampered thereby?—I do not think that within the time that I have had experience of them there has been any; I think beyond that very important point upon which the Committee has already heard evidence as to the numbers of the Commission, I cannot recollect there having been a serious difference between the Treasury and themselves upon the staff, and the kind of assistance they require; when I say that, of course, between the Department that keeps the purse and the Department that is anxious specially for its own efficiency, there will always be a certain difference of opinion; but I do not think that the Charity Commissioners could say that, apart from this main question of the number of the Commission, there have been within the last ten years any serious differences of opinion. Of course I cannot say how far the Charity Commissioners have not brought proposals forward from doubt as to their reception, but I am speaking only of those proposals that were actually brought before us.

Sir *Andrew Scoble.*

3436. Then, as far as the relations to the Treasury are concerned, I gather that you do not think that the Charity Commission suffers from not having a Minister at its head?—I do not think as far as actual facts are concerned; I was rather making my answer with regard to one or two answers which I observed had been given in evidence of which I am not in the slightest degree complaining or criticising further than this; that these answers seemed to me to imply that the Charity Commission was under peculiar difficulties; I can imagine a case in which that momentum might be required, of which mention has been made; but I do not think that in recent experience, excepting only the great question of the numbers of the Board, there has been a difference of opinion which would quite justify the idea that a momentum was required.

3437. But the same difficulties occur, do they not, even when you have got a Cabinet Minister at the head of a Department, between that Department and the Treasury?—Yes.

3438. And there has been no real injury as far as its relations to the Treasury are concerned, to

Sir *Andrew Scoble*—continued.

the Charity Commission by reason of its not having a Minister at the head of it?—I suppose the Charity Commissioners would say that if they had had a Cabinet Minister at their head he would have insisted on a settlement of this great question. The answer which I should give to that is, that if a man in the position of the First Lord of the Treasury forms a strong view such as I have mentioned about the numbers of the Board, it would really not be an ordinary administrative matter; it is a matter that has to be settled between the First Lord of the Treasury and the Minister, and if the First Lord of the Treasury has a strong opinion of his own, he is probably the most powerful of the two.

3439. Otherwise, excepting a great measure of that kind, there has been no disadvantage to the Charity Commission, as far as your experience goes, from their not having a Minister of State at the head of the Department?—I really do not think so. Of course from the very fact of the relations between the department that has to give its assent to increases of expenditure and the Department that seeks it, there will always be a certain amount of correspondence; there will always be, it may be, some little time before an agreement is arrived at, and so forth; but I really think that with regard to the Treasury and the Charity Department upon the proposals they have made (and I wish distinctly to say this), most of those proposals have recommended themselves to us as reasonable, and I do not really think that there has been any ground for unwillingness on our part to meet them fairly.

3440. Then with regard to the advantage of having a Minister of State to represent the department in Parliament, you put it forward rather as a matter of advantage to the Commission itself than to the public, do you not?—I think if it is an advantage to the Commission itself it is for the advantage of the public, is it not?

3441. Not necessarily I think; however I will not argue that. Do not you think that, as far as the representation of the Commission is concerned, the present representation is sufficient for all purposes of communication between the House of Commons and the Charity Commission?—I am giving now my own private opinion upon the matter, and not in the least basing it on having been for a very long time an official. I cannot help thinking that there will always be a jealousy in Parliament of a department that appears to Parliament to be independent of it.

3442. Now I want to ask you upon that, is there any public department which draws its resources from the State, either wholly or in part, which is not dependent upon Parliament?—The honourable Member means that every department that comes to Parliament for a vote is dependent on it.

3443. Quite so?—Certainly.

3444. The independence is not a financial independence?—No, certainly not.

3445. It is an administrative independence in certain respects?—Yes.

3446. But the exercise of that administrative independence may be called in question at any time by any Member of Parliament when the Vote comes up for adoption by the House of Commons?—Yes.

Sir *Andrew Scoble*—continued.

3447. I am speaking in reference to the Estimates particularly?—Yes.

3448. And in that way the apparent independence of the department is always liable to be controlled by Parliament?—Yes; but then I think where the department suffers is that at that moment when the department is called in question, when its actions are disputed, there is a lack of hearty defence of it.

3449. Still upon the Estimates some Minister must defend the grant which is sought?—Upon the mere question of the pay of the clerk or the particular financial point do you mean?

3450. Yes.—But I am rather puzzled to know, supposing the general action of the Charity Commission was called into question, their general policy, who would defend it.

3451. They would have their Parliamentary Commissioner in the first place?—Quite so, but I say he is not a member of the Government. It seems to me, though I may be wrong, that the advantage is in the department being in touch with the Government, and therefore the Government weight being brought forward in the House in support of the Department.

3452. That is just what I asked you just now. The advantage would be to the Commission that they get a proper or weighty defence rather than an advantage to the public because the Commission might be perfectly right but might suffer from having its case stated by one who had not sufficient weight?—Yes, I was regarding it as an official would regard it; what is the best constitution of a department in order to keep it in good relations with Parliament.

3453. But if an attack upon the general policy or constitution of the Commission were made it would be the duty, I apprehend, of some Minister of State to defend it?—I suppose so; I suppose the House would not allow the question to go on without hearing the opinion of a Minister.

3454. Then in a critical conjuncture of that kind the Charity Commission would have the advantage of representation by a Minister of State, and the Government would be responsible for the course which would have to be adopted by the Commission under such circumstances?—I do not say for a moment that it has happened; but supposing that by any chance the Government of the day differed from the policy and declined to defend it, that is to say that they stood aloof, would not that lead to a great difficulty.

3455. I should think it would lead to the resignation of the Commission or their dismissal. But under ordinary circumstances if there were an attack made upon the constitution of the Commission would it not be the duty of some member of the Government to explain or overrule the action of the Commission?—Yes, quite so; but what was rather in my mind was this, if a Minister is the recognised organ by which the acts of the department are explained, he is probably not on that occasion only but often in contact and in communication with the department, and the department

Sir *Andrew Scoble*—continued.

department itself then has an opportunity of learning from him, and discussing with him not on the single occasion of attack but at various times what is the tendency of Parliament, what are the points upon which the department and Parliament are likely to be at issue, and therefore the relation between the department and Parliament will be bettered.

3456. We have heard that there has been for some time a connection more or less intimate between the Education Department and the Charity Commission?—On certain points; is it not in regard to endowed schools chiefly.

3457. Especially in regard to endowed schools?—Yes.

3458. Do you think that a closer connection than exists between the Education Department and the Charity Commission would be necessary in order to make the Minister of Education responsible in Parliament for the Charity Commission?—There it comes to a question of the business of the Charity Commission, and to what extent (we will say) the Education Minister could be cognisant of it I have not felt able to express an opinion as to whether the Charity Commission should be put immediately under a Minister of its own, or put in connection with another department. I have simply said that there are a variety of departments which are represented in Parliament even though the Parliamentary chief has not the power of interference.

3459. Let me take an instance: take the Board of Inland Revenue; questions in regard to the Board of Inland Revenue would be answered by the Chancellor of the Exchequer, I presume?—Yes.

3460. And yet the Chancellor of the Exchequer takes no part in the daily work of the Board of Inland Revenue?—The Chancellor of the Exchequer is supreme master.

3461. Does he take any part in the ordinary routine work of the Board of Inland Revenue?—Not in the ordinary routine work, but wherever anything arises in which a question of policy occurs, and is called in question, he is the supreme master; he is the head of the Inland Revenue. That instance would not, I think, apply. The Chancellor of the Exchequer is so completely the head of the Inland Revenue and Customs that except as a matter of convenience they might just as well be as they are in some foreign countries under the same roof as the Treasury.

Chairman.

3462. He has both the power and the responsibility?—Yes.

3463. Absolute?—Absolute; he is completely responsible for every act of the Board to Parliament.

Sir *Andrew Scoble.*

3464. And yet takes no part in the general work of the department?—Not in the general work.

3465. Would there be any difficulty whatever in having a similar representation of the Charity Commission by some member of the Government with analogous duties?—You would then be putting the minister (it might be right) into a very powerful position with regard to the Charity Commission.

3466. I should like to know whether there would be any objection, from your point of view, to putting a minister into the same relations with the Charity Commission as the Chancellor of the Exchequer occupies with regard to the Board of Inland Revenue?—I do not feel that I know enough of the inside working to answer that question with any weight.

Sir *Stafford Northcote.*

3467. I daresay you have heard Mr. Acland say that there was no sufficient staff at the Education Department to enable them to take over to that Department certain duties of the Charity Commission?—I did hear him give that answer.

3468. If any such change therefore were to be made a large increase of staff and consequently of expense would be necessary?—Yes, Mr. Acland being asked whether the work of the Charity Commission was so to speak to be transferred to the Education Department.

3469. What I would rather suggest is that you must either largely increase the staff of the Education Department, or else you must retain the Charity Commission as a subordinate department; and in that case would it be your opinion that a large body of well-paid gentlemen such as the Charity Commissioners are could be retained merely as subordinates to the Minister of Education?—The Charity Commissioners are Civil servants; they hold on a very good and special tenure, and so forth, but they are Civil servants, and I do not know that there is any reason why they should not remain just in the same form as the Commissioners of Inland Revenue under the Chancellor of Exchequer.

3470. Yes, but what I would suggest is that at present they are a more or less independent body; that it is distinctly in the public interest that there should be a body of well-paid public officials; but if they are to be all turned into mere subordinates of a Minister of Education there would be no necessity for such a body of well-paid officials?—I can imagine that it might be desirable to allow the Charity Commissioners to continue to discharge their present duties under a certain control, or at all events power of interference we will say, on the part of the Minister of Education, without its being necessary to make a change in the constitution of the Commission.

3471. You think it might be in the public interest to reduce their responsibilities, but not their salaries?—Well, the honourable Baronet is aware that the great point at issue between the Treasury and the Charity Commissioners at the present moment is a reduction of the higher officers.

3472. I think you have spoken very fully on the subject of Boards. I do not know if you draw any distinction in your own mind between Boards and Councils. The India Office is governed by the Secretary of State, with the advice of a Council?—Yes. The Government

Sir *Stafford Northcote*—continued.

of India is of course a very special affair; there are a great many opinions as to its constitution, I mean everybody is not unanimous about the excellence of the present arrangement, but I do not think that personally I should admit that an ordinary Government Department over here could be put in comparison with the Supreme Government of India.

3473. And very possibly you are aware that a good many gentlemen have advocated the placing of the War Office in a somewhat similar position to that of the Admiralty, namely, that the Secretary of State for War should be head of a board in the same way as the First Lord of the Admiralty is?—Yes.

3474. To go to another matter, as an ex-official of long experience, may I ask you whether you would not consider it the duty of any public department to look very closely after departmental interests when any proposal for change or demand for money is submitted?—The honourable Baronet means the department that is asking for the money, if I understand him?

3475. What I mean is that the duty of the head or the adviser of any department is especially to see how any demand will affect the pecuniary position of the department from which the demand is made?—Yes.

3476. May I ask whether you are of opinion that in consequence of the Charity Commission not being a department presided over by a political Minister there can exist no disposition on their part to tamper with the corpus of charities for political purposes?—I think there cannot. I mean that I see that there is no special temptation to them to do so.

3477. They are less exposed to pressure than if they had a political chief at their head?—Well, they are less exposed to pressure; at the same time they might, might they not, in a perfectly legitimate administration, get so far out of touch with prevalent opinion as perhaps to lead to legislation which if they had been a little more cautious might have been avoided.

3478. My suggestion rather was that they would be likely to be rather more cautious from having a less close contact with Parliament than they would be if a Minister of high rank belonging to the Government of the day were at their head?—More cautious in preserving the corpus of charities?

3479. Yes?—Yes; but I meant on the other hand to say this: All sorts of questions arise in the administration of a charity, and is it not possible that a department that rather prided itself (I am not saying for a moment that the Charity Commission does) on keeping aloof from Parliament and from the prevalent opinion of Parliament, might bring about a state of feeling in Parliament which would lead to exactly the legislation which it was desirable to avoid.

3480. Yes; but I was glad to observe that you guarded yourself so carefully against suggesting that the Charity Commission was a department wishing to hold itself aloof from Parliament. Then you said in answer to an honourable Member, that you thought that the Charity Commission had no difficulty in getting

Sir *Stafford Northcote*—continued.

money from the Treasury for any reasonable object; might I ask if you have known of any precedent yourself of the Commission making a proposal to the Treasury which would have involved an economy through certain reductions in the staff, and appealing to the Treasury for a further increase of staff which would yet, on the whole, have entailed a considerable reduction, and being refused by the Treasury?—Yes; but if I know the case to which the honourable Baronet refers it was not refused upon its merits. The question was attached to and hung upon a decision being arrived at as to the future of the Board. I should not admit that as a refusal. I have throughout endeavoured to lay stress before the Committee upon that great difference of opinion as to the Board; but none of the Treasury objections have been pressed to the proposals of the Charity Commissioners in detail.

Chairman.

3481. The Treasury take the view, rightly or wrongly, that some conditions of the previous understanding have not been quite fulfilled?—Yes, and that an understanding must be arrived at.

Sir *Stafford Northcote.*

3482. But perhaps you are aware that with regard to this proposed reduction, the initiation of the proposal for a reduction came from the Board?—Certainly; and I have already said that the proposals as far as they are in my recollection, speaking of the time during which I have been Permanent Secretary to the Treasury, that have come from the Board, have been, in the opinion of the Treasury, eminently reasonable.

3483. I may take it then that if they had had a leading Minister at the head of the Board, in such a case as the one I have referred to, the Treasury answer would have been the same; and that the Charity Commission did not suffer from the fact that it was an unpaid Parliamentary Commissioner who defended the Charity Commission on that occasion?—The reason why I think so, is that the objection was the objection of almost the highest Minister; it was not a departmental objection. If it had been what I call a departmental objection, it is extremely likely that if we had stuck to our guns and insisted upon our objection, the Minister might have obtained a change of decision. That is not likely to be the case when the originator of the objection is almost the most powerful Minister in the Cabinet.

3484. I do not know whether you are aware whether the Charity Commission takes precisely the same view as yourself. You state that it came from one of the most prominent members of the Government of the day; I do not know whether you are aware whether they admit that to be their view of the case or not?—I speak from absolute and personal knowledge, personal communications with the Minister in question. Of course I may have mistaken what took place in our interviews; but I state most distinctly and positively that the origination was with the First Lord of the Treasury.

3485. You

Chairman.

3485. You referred to a minute (which we shall have put in another time), which you signed at the time and passed on to the Charity Commission?—Yes, but which was written by me upon distinct instructions from the First Lord.

3486. Who was the Leader of the House of Commons at the time?—Who was then Leader of the House of Commons.

Sir *Stafford Northcote.*

3487. With regard to the defence of the estimates of the Charity Commission in the House of Commons, whatever your apprehensions for the future, hitherto the defence has always been sufficient and the estimates have gone through?—As far as I know; I never heard of any difficulties.

Chairman.

3488. Do you think from your public experience that amid the fierce light of public criticism which now beats upon Government Departments, there would be the slightest chance of any Minister dealing politically, in a way in which it ought not to be done, with the corpus of these charities?—I should not be afraid o that.

Wednesday, 20th June 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith-Boscawen.
Mr. Jesse Collings.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Freeman-Mitford.
Mr. James William Lowther.
Sir Stafford Northcote.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

Mr. EDWARD TIGAR, called in; and Examined.

Chairman.

3489. YOU are, I think, at the Treasury?—Yes.

3490. And you come before us to put in a Minute?—A Treasury Minute dated the 25th of November 1887. There is also a covering letter which the Treasury addressed to the Charity Commissioners, expressing their Lordships' concurrence in the terms of the Minute.

Chairman—continued.

3491. The date of the covering letter, I see, is the 1st of December 1887?—Yes.

3492. This is a Minute by the First Lord of the Treasury of the day?—Yes (*the same was handed in*).

Mr. GEORGE WILLIAM KEKEWICH, C.B., called in; and Examined.

Chairman.

3493. YOU are the Permanent Secretary of the Education Department, are you not?—I am.

3494. Perhaps you will kindly inform us what has been your experience in the public service?—I was appointed Examiner in the Education Department in 1867, Senior Examiner in 1871, and Secretary in 1890.

3495. That covers your experience?—That covers my experience.

3496. Could you very briefly indicate what are the functions of the Permanent Secretary of the Education Department?—The functions of the Permanent Secretary of the Education Department are the general supervision of the whole of the work of the Education Department, subject, of course, to the instructions of the Vice-President.

3497. We have had the advantage of the evidence of the Vice President, but he has not gone very much into detail with respect to procedure, preferring to leave that to you. Perhaps you will now give us, formally, a fairly full account of the procedure in the Education Department in respect to schemes submitted to them by the Charity Commissioners under Section 36 of the Endowed Schools Act, 1869?—The Education Department are required by Section 13 of the Endowed Schools Act of 1873 to publish and circulate the scheme in such manner as they think sufficient for giving information to all persons interested.

Chairman—continued.

3498. Let us pause for a moment upon that. Perhaps you will give us, a little later on, the exact meaning of the term "publish and circulate," as it is rather important?—Yes. They are required to publish and circulate the scheme, together with a notice stating that during one month after the first publication they will receive any objections or suggestions made to them in writing respecting it. The mode of publication and circulation adopted by the Education Department is to insert advertisements in the same newspapers in which the draft scheme has been advertised by the Charity Commissioners. These newspapers are never less than two in number, and they are generally three. They are newspapers circulating in the locality, and they generally represent both political parties. The advertisements are inserted in the issues of two following weeks.

3499. Then at the expiration of the month what courses are open to your Department?—At the expiration of the month there are three courses open to the Department: To disapprove the scheme; to approve it; or to remit it with a declaration to the Charity Commissioners.

3500. Will you take those in the order in which you have mentioned them, please; disapproval, first?—Disapproval takes place when the opposition is to the scheme as a whole, and is not such as could be met by any amendment of details. In such cases the Department have occasionally

Chairman—continued.

occasionally found it desirable to disapprove the scheme.

3501. Is that all you desire to say under the head of disapproval?—That is all.

3502. Now we will take approval, if you please?—If no objections or suggestions have been received during the month of publication, the practice of the Education Department has been to approve the scheme forthwith. If objections or suggestions have been received, and are not considered such as would warrant remission to the Charity Commission with a declaration, the scheme is also approved.

3503. Is that all you desire to say under the head of approval?—Yes.

3504. Now with respect to remission with a declaration?—That course is only taken, as in the case of disapproval, when there is opposition to the scheme as it stands when submitted by the Charity Commissioners. In cases where the objections and suggestions have reference to matters of detail, the opposition may be met by amendment of the scheme. But though it may be said that the objectors appeal to the Department for amendment of the scheme against the decision of the Charity Commissioners, the Department have practically no power to allow the appeal without the consent of the Charity Commissioners.

3505. Why, how does that arise?—The Department have no power to enforce amendment of a scheme because the Charity Commissioners are not compelled to accept the amendment. They can, if they think proper, drop the scheme altogether and proceed to prepare a new scheme.

3506. Then in that situation of course arises the necessity for the Education Department to communicate with the Charity Commissioners?—That is so. We communicate with the Charity Commissioners by informal and confidential communications, which are frequently, or at least sometimes, very largely verbal.

3507. All that falls under the head of informal and confidential arises as what I may call a voluntary act; it is necessary in order that the work shall proceed?—That is so.

3508. But it is not obligatory, I understand?—It is not obligatory. No doubt the Education Department might, if they thought proper, remit the scheme to the Charity Commissioners without consulting them; but then they would run the risk of the scheme not being accepted.

3509. Then I suppose in these informal and confidential communications the Education Department tries to arrive at some understanding before it takes its formal action; is that so?—Yes.

3510. Supposing the Education Department and the Charity Commissioners do not arrive at an understanding, what then?—Then the Education Department would have to either suspend the scheme or disapprove it, or they might take the third course of remitting it, with the knowledge that the amendments would not be accepted by the Charity Commissioners, and that course would be tantamount to disapproval.

3511. Suppose the amendments set out in the declaration are accepted by the Commissioners, what then?—Then they submit under Section 40 of the Act of 1869 such amendments as will bring the scheme into conformity with the declaration, and the scheme is then approved.

3512. What is the practical effect of the procedure so far as you have now given it?—The effect is that while the Education Department have an absolute power of approval or disapproval, the power of amendment really remains, in my opinion, with the Charity Commissioners.

3513. Is that all you desire to say with respect to the third head?—That is all.

3514. I will ask you now, from your experience, can you give in any indication as to what the term "approval" by the Education Department really means?—It is the practice of the Department to approve all schemes to which no objection has been taken. Therefore "approval" really means that no objection or insufficient objection has been taken. No doubt it may be said that by any approval the Department commits itself technically to approval of all the details of the scheme; but I should like to point out that the Education Department have neither the knowledge nor the machinery for fully criticising or re-framing schemes. If the Education Department were to adopt the view that the intention of the Act was that they should actually, as well as technically, approve every detail of the scheme, they would not only, it seems to me, have to guide the policy of the Charity Commission in framing schemes, but they would have to assure themselves of the reason of every particular provision of the scheme, and they would have to go into the results of local inquiries, and practically to do much of the work of the Charity Commission over again. The two bodies would do the same work. It seems to me that there is no middle course between the Education Department merely taking action where objections have been raised, and going into the whole labour of the Charity Commission, and practically re-framing the scheme.

3515. It follows, therefore, from your account, if your account be an exact one, does it not, that the word "approval" means rather a technical procedure than what the word usually conveys?—That is my view.

3516. Let us illustrate that a little further for a few moments. Have you gathered, from your experience, that the schemes of the Charity Commission are settled upon any definite policy?—I think they are in many points. I think it might be possible that the Government of the day, as represented by the Lord President or the Vice President of the Committee of Council on Education, might differ in some essential points from the policy of the Charity Commissioners, and, if so, the Education Department might decline to approve schemes in such numbers as to practically cause a deadlock.

3517. Is the power of disapproval limited in any other way?—I think it is limited by this fact, that the Education Department must necessarily be influenced by the consideration that if it disapproves a scheme on account of details, however such details may be opposed in the policy embodied in them to the policy of the Government of the day, it destroys a fabric, the scheme itself, which has taken a great deal of time

Chairman—continued.

time and labour to build up, and it withholds, or at any rate delays, the benefits to the locality which might result from the scheme being brought into operation.

3518. Do you think that the Act of 1873 has had any effect upon the responsibility of the Education Department?—I think so; I think it has had this effect: under the Act of 1869 all schemes, without exception, were laid before Parliament, and the Minister representing the Education Department might be called upon to defend any and every scheme; but now his functions in defending schemes are confined to schemes which have been the subject of a petition; and, moreover, any control on the part of Parliament is confined to those particular schemes. Then, again, there is the effect that I have just mentioned, that the responsibility is weakened by the fact that under the Act of 1873 the Charity Commissioners are made the ultimate judges whether any objections to the scheme should be sustained.

3519. Summing the matter up, then, do you consider that the Education Department, as things now stand, has a control of a satisfactory and complete character over schemes?—I have always thought that the control is very shadowy and illusory.

3520. If that completes what you desire to say under that head, we will pass to the procedure after approval, if you please; will you give us an account of that?—Under Section 13 of the Act of 1873 the Department again publish and circulate the approved scheme in a similar manner, that is by advertising in the newspapers in the same manner as I have already mentioned, together with a notice stating that the scheme may be approved by Her Majesty in Council without being laid before Parliament, unless within two months a petition is presented to Her Majesty in Council against the scheme, or a petition is presented to the Education Department praying that the scheme may be laid before Parliament.

3521. Now, let us take the petition to Her Majesty in Council first, if you please, and follow it?—A petition against the scheme to Her Majesty in Council may be presented within two months by certain bodies or persons specified in Section 39 of the Act of 1869, on certain grounds, which are mainly legal, and which are specified in that section; and that petition must be referred to the Judicial Committee under Section 14 of the Act of 1873. Those legal proceedings are conducted by the Charity Commissioners and not by the Education Department.

3522. Supposing the Judicial Committee in its discretion recommends Her Majesty not to approve the scheme, what happens?—Then the procedure on the scheme is at an end.

3523. If on the other hand they recommend approval, what then?—Then it is laid before Parliament.

3524. Does that complete your account of the procedure before the Judicial Committee?—Yes.

3525. Now turning to the petition to the

Chairman—continued.

Education Department, what have you to say on that subject?—A petition may be presented to the Education Department by certain bodies or persons specified in Section 13 of the Act of 1873 praying that the scheme may be laid before Parliament; and if such a petition is presented the scheme must be laid before Parliament accordingly, under Section 15 of the same Act.

3526. Will you tell us what occurs then?—Then the scheme has to be laid before Parliament for two months during the same Session, before Her Majesty can approve the scheme. Within such two months an Address may be presented by either House of Parliament praying Her Majesty to withhold her consent from the scheme, or from any part thereof. If no Address is presented the scheme is approved.

3527. Now, here, confining ourselves for a moment to the House of Commons, are you aware that in February 1888 a Standing Order was adopted in the House of Commons bringing the proceedings to an end at a definite hour, namely, for opposed business 12 o'clock, and business altogether 1 o'clock?—I have heard so.

3528. Has the effect of that been that motions with regard to these schemes are now, under an exception in Standing Order No. 1, relegated to the time after midnight?—I understand that is the case.

3529. Within your experience in the Department since that date, do you know of any discussion on these schemes before midnight?—I cannot recollect.

3530. At all events, have you at the Education Department been aware that these schemes almost always come on after midnight if a motion is made; I am speaking now of the House of Commons?—I cannot remember. I am not sure whether since I have been secretary, and since I have been intimately connected with this part of the work, any discussion has arisen.

3531. Now, will you proceed with your main evidence; you have said that if no Address is presented the scheme is approved. Supposing an Address is moved, what happens then?—Then it depends on the nature of the Address which is moved and carried whether the scheme is rejected as a whole, or whether a certain part of it is omitted.

3532. If no Address has been carried, do you infer that the House expresses its approval?—I should say so; I infer that it does.

3533. Supposing an Address is carried, what then?—Then part of the scheme may be omitted, or the whole scheme may be rejected, according to the nature of the Address. But I should like to point out this: that the carrying of an Address in one House involves the approval of Her Majesty to a scheme which differs, it may be materially, from the scheme which the other House has approved, and which altered scheme it has not actually approved, and might not be willing to approve.

3534. To that extent, then, the control of Parliament over schemes is somewhat limited and incomplete?—It is limited and incomplete; because if an Address is carried by either House, omitting

Chairman—continued.

omitting certain parts of the scheme, there is no power on the part of the other House to reinsert them. There is no remedy for that omission except an amending scheme, and that may be made by the Charity Commissioners if they think fit. There is no power to compel them to make that amended scheme.

3535. Is that what you desire to lay before us with respect to procedure in Parliament?—The scheme by the Act has the force of an Act of Parliament, but nevertheless it may not be passed, in the shape in which it comes into law, by both Houses. It may have been approved by one House in an entirely different shape from that which it has taken in the other.

3536. It has arrived, that is to say, at the full condition of an Act of Parliament by a very different road from that by which other Acts of Parliament have arrived at it?—Very different. There is no power of inserting, I point out, anything in the scheme. Parliament has no power of inserting anything in the scheme; the Education Department have no power of inserting anything in the scheme; all power of insertion rests with the Charity Commissioners.

3537. Is that all you desire to lay before us with regard to procedure?—That is all.

3538. Then I wish to take you to a different matter altogether, if you please. I wish to ask you whether, in the Education Department, there are any powers of a judicial or a *quasi*-judicial nature, and if so, can you give us illustrations of that?—I think that the Education Department has very exceptional judicial powers under the Education Acts.

3539. Under the Act of 1870, do you mean?—The Act of 1870 read with the others; the whole of the Education Acts. We have to judge, for instance, whether a school board has done its duty, and if it has not done its duty, we are not only able to pass sentence against it, but we are able to inflict a very serious penalty. If we arrive at the conclusion that the School Board has committed any act by which it has made itself liable to be defaulted, as is the term in the Education Acts, we are able to turn it out. The effect is that we expel it from office; and in most cases we have the option of either ordering a fresh election or setting up a board nominated by ourselves. We are able to turn out an elected body and replace it by a nominated body; and not only that, but we have the power of directing that the nominated body should be paid out of the rates; and the members of the School Board, on our order and default, vacate their places, in the language of the Act, as if they were dead; and the effect of our order is to vest the whole of the property of the elected body in the nominated body which we appoint. But notwithstanding the very extensive character of that jurisdiction, I think the system has worked exceedingly well.

3540. And that you put before us as an illustration of the judicial or *quasi*-judicial character of some of the powers of the Education Department?—That I put before you as an instance of judicial powers, I should say, of a very exceptional character.

Chairman—continued.

3541. Could you give us in the form of a Return some figures relating to the work of the Education Department in relation to the matter on which you have been giving evidence?—I have had a Return prepared which I can hand in now which shows the whole of the work of the Education Department under the Endowed Schools Acts from the 1st of January 1884 to present time; extending over the last 10 years therefore.

3542. Can you indicate a little the character of it from the heads of the columns, that we may know what it is?—The Return is given year by year, and the heads of the columns are, "number of approvals," "number of schemes remitted with a declaration," "number disapproved," "number in which petitions were received to lay the scheme before Parliament," "number in which petitions were received by the Privy Council Office to lay the scheme before the Judicial Committee," "number where motion for an Address was made in the House of Lords and the House of Commons respectively," "the number of such motions that were agreed to or carried on division," and "the number that were negatived or withdrawn."

3543. Perhaps that is sufficient to indicate the character of the Return; have you anything to say upon any other Return?—I have also, if the Committee wish to have it, a list of schemes laid before Parliament since the year 1884 with the procedure in Parliament on each of them.

3544. Perhaps you will kindly hand them in?—(*The Returns were handed in*).

3545. Is that all that you desire to say in your examination-in-chief?—That is all.

Sir *Stafford Northcote.*

3546. Does that Return which you have just given us state the number of schemes that have fallen through in consequence of any disagreement between the Education Department and the Charity Commission?—No, it does not state that, because I am not aware that we could state precisely that any schemes have fallen through in consequence of a disagreement between the Education Department and the Charity Commission. The practice of the Education Department has been, in order to avoid schemes falling through where there has been a difference between Departments in matters of policy, to agree technically to the scheme and approve it.

3547. May I ask if you have found any indisposition on the part of the Charity Commissioners to accept suggestions from the Education Department?—Not, I think, until recently; we have in the case of some of the Welsh schemes.

3548. Do you find much variation in the educational policy of the Charity Commissioners, in the schemes submitted to the Education Department according to which political party may be in power?—No.

3549. With regard to this question of approval, would you consider it unreasonable to suppose that where a scheme had been prepared by a body of experts such as the Charity Commissioners, and where no objection to it was raised by the locality, the Education Department might

Sir *Stafford Northcote*—continued.

might fairly assume that it was a good scheme?—I think that the Education Department might fairly assume that it was a good scheme so long as it is not considered that they are bound to go into questions of policy.

3550. Then with regard to the question of delay, we have had some evidence that proceedings might be quickened if the origination of schemes were transferred from the Charity Commission to the Education Department; would there be any delay removed except that involved by the inter-departmental correspondence?—I have so little cognisance of the proceedings of the Charity Commissioners in framing schemes that I can hardly answer the question, and I am not aware whether the Education Department when it was face to face with the business would find it possible to materially increase the speed with which the schemes were framed; but certainly if one Department, and not two Departments dealt with the whole matter, you might get rid of some of the formalities; you might get rid of one publication perhaps.

3551. Of one publication; but you would not propose to shorten the time of advertisements to the locality; or would you propose that the time of notice to the localities interested should be shortened, the time during which they have the right to propose amendments or raise objections to the scheme?—No.

3552. Therefore, practically, you cannot suggest anything further than that there might be some shortening of the time occupied by inter-departmental correspondence?—I think that is so; and I think that the result in some cases would be considerable. I have before me cases in which schemes have been suspended for a very considerable time; and I take it that if those schemes had been in the hands of one Department, that Department would very soon have made up its mind as to whether it was expedient to withdraw the scheme and to make a fresh one or not.

3553. But have those schemes been suspended in consequence of differences of opinion between the Charity Commission and the Education Department, or simply through the *laches* of the Charity Commission?—I do not think they have been suspended in consequence of difference between the Education Department and the Charity Commission, at least so far as appears in our papers; I cannot tell what verbal communications may have passed; but as a rule they have been suspended in consequence of local objections. What I think is, that if the whole might have been in the hands of one Department, the force of the local objections would very soon have been thrashed out and a new scheme would have been quickly framed. I have before me here a case of a scheme at Oxford which was submitted to the Education Department on the 15th of April 1886. I think that we have had recently a new scheme submitted to us in the place of that. The scheme has not been formally withdrawn, but merely suspended, and we have had a new scheme submitted to us in place of that, very recently, on the 19th March 1894. I cannot but think that if the matter had been in the hands of one Department, with perhaps a Minister to give it momentum at its head, a new scheme might have been established long before this.

Sir *Stafford Northcote*—continued.

3554. There must of course have been some special reason for suspending a scheme for eight years; perhaps you do not know that reason, and the Chief Commissioner will be able, perhaps, to give us that later?—The reason, I believe, was the strong local opposition to the scheme.

3555. But why should that local opposition have been stronger in the case of the Charity Commission than it would have been had the scheme been submitted by the Education Department. If it had been originated by the Education Department, what reason is there for supposing that the local opposition would have been less?—Speaking from the only experience that I have, that is to say, as the permanent head of the Education Department, I do not think that if it had been in our power to have made a new scheme we should have allowed it to have been delayed for eight years.

3556. That will probably be a question to ask the Chief Commissioner when he comes before us again. With regard to the *quasi*-judicial authority of which you spoke, do you frequently have occasion to put that *quasi*-judicial authority into operation?—Yes.

3557. It is contended that the Charity Commission work is very largely of a judicial or *quasi*-judicial character; would you suggest that you have as much or more *quasi*-judicial work to do at the Education Department than the Charity Commissioners have?—I have no means of knowing accurately what the judicial work of the Charity Commissioners is; I understand that it consists very much of appointing trustees and vesting estates; I was merely illustrating, from the instance that I gave, that we can appoint a school board and vest the property of an elected board in the nominated board.

Mr. *Griffith-Boscawen.*

3558. You said, in answer to Sir Stafford Northcote, that, generally speaking, there is no indisposition on the part of the Charity Commissioners to refuse a declaration, but that there has been some in the case of the Welsh schemes?—That was so.

3559. Could you tell me on what points there was that indisposition?—There were two cases: one was the case of Cardigan. Perhaps you would like to take them separately.

3560. Yes, if you please?—There were two alternative schemes presented to the Department under the Welsh Act. The point of difference between the scheme of the Charity Commission and that of the Joint Committee was a single one, whether scholarships under the schemes should be tenable at "a county school" only, as desired by the Joint Committee; or at "a school governed by a scheme under the Endowed Schools Acts" also, as desired by the Charity Commission. Those words might have included the Intermediate School attached to St. David's College, Lampeter. The Education Department first remitted the scheme of the Charity Commissioners with a declaration that it was expedient to amend it by omitting the words the

omission

Mr. *Griffith-Boscawen*—continued.

omission of which was desired by the Joint Committee; that is to say, the words "a school governed by a scheme under the Endowed Schools Acts." This the Charity Commissioners declined to do, and suggested that the Education Department should approve the scheme of the Joint Committee. That course the Education Department adopted.

3561. In that case the Charity Commission got its way, so to speak, and the Education Department assented to the scheme without the change being made which your Department desired?—The Education Department got its way because it approved the scheme of the Joint Committee which omitted the words desired by the Charity Commission.

3562. The Education Department approved the scheme of the Joint Committee?—The Education Department approved the scheme of the Joint Committee, but not the scheme of the Charity Commissioners.

3563. So that in that case the Charity Commissioners did make a change?—No, they did not make a change. The scheme of the Joint Committee differed from the scheme of the Charity Commission only in the omission of certain words.

3564. But the scheme which was submitted to Parliament after having been approved by the Education Department was not the scheme precisely as it was first sent to the Education Department by the Charity Commission?—It was the scheme of the Joint Committee; the alternative scheme of the Joint Committee which had been approved by the Education Department.

3565. But it was not precisely the scheme sent up by the Charity Commission?—Not with respect to those words.

3566. Therefore, so far as those words went the Charity Commissioners did allow that change to be made; they allowed the words to be omitted?—No, because the scheme of the Joint Committee was approved as a whole by the Education Department as an alternative scheme.

3567. Both schemes were submitted?—Both schemes were submitted.

3568. Both submitted to Parliament?—Both submitted to the Education Department, but only the one that was approved by the Education Department was submitted to Parliament; that was the scheme of the Joint Committee.

3569. However, in that case the scheme submitted to Parliament was the scheme approved by the Education Department, not the scheme approved by the Charity Commissioners?—That was so.

3570. Could you tell me the other case; was that the case of Flintshire?—The other case was the case of Flint.

3571. What was the point of difference there?—The point of difference was this: There were alternative schemes, I think, submitted in the Flint case, and the Education Department proposed to remit, and did remit, the scheme of the Charity Commission, with a declaration that certain amendments should be made in a clause, Clause 92, I think it was. The Charity Commission refused to amend the scheme

Mr. *Griffith-Boscawen*—continued.

and proceed with it in pursuance of that declaration.

3572. Do you know on what ground?—I am not fully acquainted with the grounds, but they objected to the amendment of their clause.

3573. Is it not a fact that the change which the Education Department wished to make was to insert words which had been struck out in the House of Lords in a previous scheme?—No; the whole clause had been struck out in the House of Lords from the Merionethshire scheme. That clause was the clause of the Charity Commissioners amended in pursuance of a declaration addressed to them by the Education Department. The words had reference to the religious instruction in boarding houses.

3574. That is to say, a clause which had been struck out of the Merionethshire scheme the Charity Commissioners refused to insert in the Flintshire scheme?—The same clause as was in the Merionethshire scheme of the Charity Commissioners was in the Flint scheme; but the clause was amended by the Charity Commissioners in pursuance of the declaration in the Merionethshire case, and they declined to amend it in the Flintshire case. They wished us, as I understand, to take advantage of the House of Lords having rejected the whole clause in the Merionethshire case, to strike out the whole clause in the Flintshire case.

3575. In fact, in that case, the whole clause had been rejected shortly before in the case of Merionethshire?—Yes; but I should like to point out that that same clause as to religious instruction, without the amendment made by the Education Department (which was only a few words), is at this moment in the Montgomery scheme which has been approved by the Education Department, and against which no petition has been presented to either House, and it is now law.

3576. Was the Montgomery scheme framed before or after the Merionethshire?—I think it was about the same time, but I think I can give you the date. [*The Witness referred.*] The Montgomery scheme was approved by the Education Department on the 2nd August 1893, and approved by Her Majesty in Council on the 23rd of November 1893. The Merionethshire scheme was approved on the 22nd June 1893. There was only, therefore, a difference of less than two months between the dates of the approval by the Education Department.

3577. Could you tell me was it before or after the Address in the House of Lords in which the clause was struck out from the Merionethshire scheme?—It was approved before.

3578. Cardigan and Flintshire are the only two cases in which there has, you say, been an indisposition on the part of the Charity Commission to consider a declaration, or the change suggested by a declaration?—That is so; and I have explained the reason to be that in the ordinary procedure under the Endowed Schools Acts the declaration has never been sent to the Charity Commissioners except where they approved the contents of the declaration.

3579. Except where they approved the greater part of it?—Yes, after an agreement has been arrived at.

Mr. *Griffith-Boscawen*—continued.

3580. Your evidence, so far as it relates to the Charity Commission, I take it, relates only to the Endowed Schools side of the Charity Commission?—That is so.

Mr. *Wickham.*

3581. With regard to the Oxford scheme, which you told us had been suspended for eight years on account of local opposition, would your office have paid less regard to the local opposition than the Charity Commissioners did?—I do not think we should; but I do not wish to attribute the blame of the delay to the Charity Commissioners. What I wish to do is to indicate that if the whole procedure had been in the hands of a single Department it is exceeding unlikely that the scheme would have been hung up so long.

3582. Then you do not think that it resolves itself into this: that one Department is more attentive to local opposition than the other?—No; not at all.

3583. Then it cannot be entirely local opposition which caused it to be suspended, but some want of harmony between the two Departments?—It was, I believe, the local opposition, and the consequence was that the scheme was suspended, and I believe that the scheme is still under submission to the Education Department; but nevertheless a new scheme has been framed and submitted to us and I believe approved.

3584. Framed by the Charity Commission, do you mean?—Framed by the Charity Commission.

Sir *Andrew Scoble.*

3585. When schemes under the Endowed Schools Acts come up to your Department from the Charity Commission, and there is no opposition to them, is it the case that the approval of the Department goes almost as a matter of course?—Yes.

3586. Is there any independent examination of the schemes by your Department under those circumstances?—No; we approve as a matter of course.

3587. Now, when there is opposition, from which point of view do you regard the schemes; in their legal aspect or in regard to their educational bearing mainly?—It depends on what the point of detail is to which the objection is taken. If it is a legal objection, the practice of the Education Department is to hold that it has no power to deal with legal objections. It has done so in one or two cases, and disapproved schemes, because the legal objections were considerable; but, as a general rule, the legal objections are matters for the Judicial Committee after petition.

3588. Does your Department ever consult the law officers as to legal objections to schemes?—I have never known a case in my experience.

3589. Now, when a petition is presented that a scheme may be laid before Parliament, does that have any effect upon the inquiry made by the Department, either in the way of producing a more careful examination or in making the examination less stringent?—The examination of the scheme, do you mean?

3590. Yes, the examination of the scheme—

Sir *Andrew Scoble*—continued.

The petition is not presented until all that is done. The petition is presented after the approval of the scheme by the Department.

3591. Then a petition is only presented when the Department is *functus officio* in regard to the scheme?—Yes, it has passed out of the Department's hands.

Mr. *George Russell.*

3592. In order to get this point quite clear, I want to ask you again, do I correctly gather from what you say that when the Vice President approves a scheme, that only signifies that there has been no local opposition to it?—No, that may signify one of two things; it may signify that there has been no local or other opposition (because the opposition is not always merely local); or it may also signify that there has been opposition to the scheme, but that the opposition has been overruled by the Department.

3593. In the latter case then the approval of the Vice-President would signify his concurrence in the scheme?—It would signify his concurrence in the scheme; and then the objectors, of course, have the power of lodging petitions and having the scheme laid before Parliament.

3594. Perhaps I may put it in this way. Then the approval of the Vice-President does not necessarily imply approval of the scheme; it may imply only that there has been no opposition to it?—It cannot possibly imply approval of all its details; because the Education Department has not the machinery for going into all the details, nor the knowledge, nor the staff.

3595. Then even in the case where there has been opposition, and that has been overruled, the approval of the Vice-President does not involve complete agreement with all parts, but only a general agreement?—Although it may technically be said to be an approval of every detail in the scheme, I do not see how it can possibly be such an approval in fact.

3596. And I think I understood you to say in reply to some earlier questions, that the approval was often or sometimes given only to avoid the injury and inconvenience to the neighbourhood which would be caused by either defeating or retarding the scheme?—The Education Department are largely influenced in approval of schemes by the loss which would be occasioned to the education of the locality by delaying the approval of the scheme.

3597. So that in cases of that kind the approval of the Department only conveys this: that they would rather pass a more or less imperfect scheme than expose the district to the inconvenience or detriment of having it indefinitely postponed?—That is, I think, what it comes to.

3598. Then may I ask if you consider that this very limited power of control which the Department seems to exercise is satisfactory in the interest of the public service; or would you rather see these schemes much more absolutely under the control of the Department?—I would not like to express an opinion as to whether the control of the Education Department should be enlarged or not; but judging from my own experience as the head of a Department which

Mr. *George Russell*—continued.

which is under ministerial control, and complete ministerial control, I should have thought it would have been very much for the advantage of the procedure under the Endowed School Acts if the Department administering that procedure was a single Department, and if it was also under ministerial control.

3599. I quite understand; you will not commit yourself to saying that you think the Education Department as now constituted should be that authority; but you think it would be for the advantage of the public interests if the Endowed Schools part of the Charity Commission was under some ministerial control?—I would rather say if the procedure as to Endowed Schools was under such control.

3600. And you do not wish to state an opinion as to whether it would be more convenient to have that procedure as to Endowed Schools and the ordinary elementary educational business of the country in one and the same ministerial hands?—I think it would be exceedingly desirable that they should be under the same Minister as a Minister of Education; but you will hardly desire me to express an opinion, I suppose, as to whether the Departments should be amalgamated.

3601. No, I meant under a Minister of State, and the same Minister?—Yes, the same Minister.

3602. May I ask if your attention has ever been directed to this question, whether it would be more serviceable to have these two Departments under the control of a Minister as we have now been contemplating in your last answer, or under something like a Standing Committee of the House of Commons. I may perhaps elucidate my question by saying this: I believe there is in the minds of many who have given attention to this subject the conviction that to put Education and Charities under a Minister in the ordinary sense of the word, a Minister of the Crown, a political official, would be of necessity to introduce political considerations into the administration of such charities, and to bring all the forces that are generally engineered by the whips of a party to the support of schemes not on their merit defensible; and those who take that view think that while the proceedings of the Charity Commission ought to be very much more under Parliamentary control than they are, that control would be very much more effectually exercised by something like a Standing Committee of this House than by a political official in the ordinary sense of the term; have you considered that question, and have you any preference as between the two?—In answer to that question I can only refer to my own experience in the Education Department. I suppose that there is no department, or very few departments, so subjected to what is called constant political pressure as the Education Department is. I have never known that political pressure, speaking generally, result in anything but good. I have never known political pressure result in injustice or in anything wrong; but I have known it of the utmost use in bringing to light injustice and in bringing before the department facts as respected localities which would not otherwise have been brought before them, and on which they could act.

3603. I quite understand the benefits of Parliamentary control; but it seems to me that those benefits which you describe in that answer might conceivably be obtained either through the agency of a Minister of State, a department and a Minister responsible to the House of Commons, or through a Committee of the House with men of different political opinions and indiscriminately mixed. I would ask if you think that those benefits that you describe would be obtainable through the agency of a Standing Committee composed of members of Parliament of both sides, or could only be obtained through a Minister of a Department of State?—I should have thought they would be equally as well obtained by a single minister. I do not quite understand what the arrangement proposed would be, but I cannot say, judging from my general knowledge of the question, that I am at all inclined to be enamoured of Government by Board.

3604. And you do not think, as I collected from your former answer, that the fact that a Minister of State or a Department of State are necessarily governed by political considerations, more or less, and worked through political, strictly partisan methods, is a detriment to the public service or the interests of the localities?—I do not think so at all.

Mr. *Freeman-Mitford.*

3605. I should like to get from you exactly what I do not quite gather at present, namely, what your views are as to the results of the present system: is it your view that the educational work done at the present moment by the Charity Commissioners should be gathered together under the Education Department?—No, I have carefully avoided expressing any opinion on that subject. I merely say that I think it would be very desirable that the Endowed Schools part of the work of the Charity Commission, so far as my personal opinion goes, should be placed under the control, the direct control of a Minister, and that Minister would be, I presume, the Minister of Education.

3606. You would not suggest that there should be two departments of education; obviously (it follows from your reasoning) it seems to me that the work would go to the Education Department?—As a matter of fact there are at this moment, under the existing Minister of Education, as he might, I suppose, be called, the Vice-President of the Council, two entirely distinct Departments, the Science and Art Department, and the Education Department.

3607. The Science and Art Department only takes up certain branches of education, does it not?—It is just as distinct, I should say as, and not more distinct from the Education Department than, the Endowed Schools section of the Charity Commission.

3608. But does the Science and Art Department go beyond artistic instruction; does it undertake the work of general education?—It undertakes secondary education in science and art.

Mr. *Freeman-Mitford*—continued.

3609. In science and art?—Yes. But my point was this: These two departments are absolutely separate, and yet they are under the same Minister who is the bond of connection between them; and that there is (it may or may not be desirable) no absolute reason why a third should not be joined.

3610. And added to the existing two?—And added to the existing two. I do not pledge myself to saying that it would be a good arrangement.

3611. But you see no reason why such a course should not be pursued?—No, I see no reason why such a course should not be pursued.

3612. At the same time, I presume that you would leave intact in the hands of the Charity Commissioners those trusts and legal questions which affect the endowments of schools?—That is a matter upon which I can express no opinion except that the Education Department, as I have already explained, has to discharge certain judicial functions, and I do not see why so far as I know anything of them, the judicial functions of the Charity Commissioners should not be brought under the direct headship of a Minister of Education and Charities.

Mr. *Lowther*.

3613. Your chief objection, I understand, to the present system is that the Charity Commission do not necessarily carry out an amendment in a scheme which is remitted to them with a declaration?—Yes; I mentioned that as illustrating the statement that the so-called control of the Education Department was quite illusory, because the ultimate power of decision of whether or no a scheme should be amended rests with the Charity Commission.

3614. You have complete power of rejection; if on the face of it you think the scheme bad you can reject; and supposing that there is considerable local opposition, weighty local opposition, you can reject the scheme, and would?—Yes; and we have done so.

3615. You have some doubts as to whether you ought to approve a scheme even if it is approved in the locality, I understand?—No; if there are no objections or suggestions with respect to the scheme, we approve the scheme practically as a matter of course.

3616. Without hesitation on your part?—Without hesitation, generally, I think.

3617. You do not feel uncomfortable when the vice-president, with your advice, writes, "I approve," upon a scheme to which there is no local objection?—I cannot say that I feel uncomfortable; but I do feel that the approval does not mean approval of every detail of the scheme. Generally it merely means that no objection to the scheme has been raised in the locality.

3618. I will say then; In the matter of approval you have some searchings of heart as to whether it is quite right to put "I approve" upon a scheme, even though it is strongly supported in the locality?—All I would say is, that I do not think that the words "I approve" commit the Department in fact to an approval of every detail of the scheme, however much they may technically do so.

Mr. *Lowther*—continued.

3619. But your strongest objection is to the procedure by which a scheme even when remitted with a declaration may practically be stopped by the Charity Commissioners not falling in with your declaration?—That is what I consider limits the control of the Education Department.

3620. You know, of course, clause 40 of the Endowed Schools Act 1869?—Yes.

3621. Which runs thus, "where a scheme is remitted with a declaration, the Commissioners may either proceed to prepare another scheme in the matter, in the same manner as no scheme had been previously prepared, or may submit for the approval of the Committee of Council on Education," and so on. Would not all your objections be removed if those two words "may" were amended by "shall"?—That would still leave an alternative.

3622. It would then run that: "the Commissioners shall either proceed to prepare another scheme," &c., "or shall submit for the approval of the Committee of Council on Education, such amendments as will bring it into conformity with the declaration"?—Of course the great advantage of the alteration which you propose would be that the Charity Commissioners could not drop the scheme altogether; that they must do either one thing or the other; they must either submit an amendment to us in accordance with the declaration, or they must prepare another scheme.

3623. As a matter of fact there are no instances, are there, under this procedure of the Endowed Schools Acts in which the Charity Commissioners have dropped a scheme in consequence of not agreeing with the amendments remitted to them?—Not under the Endowed Schools Acts, apart from the Welsh Intermediate Act.

3624. And these cases under the Welsh Intermediate Education Act have arisen within the last 18 months, have they not?—Yes.

3625. Prior to that time there was never any friction or difficulty?—I cannot say that there has been any friction, because such infinite care has been taken throughout the procedure to avoid friction.

3626. And with regard to, in those cases in which the Commissioners refused to amend their own schemes, there was, was there not, in each case an alternative open to the Education Department, namely to remit the scheme of the Joint Education Committee?—That was so.

3627. And that alternative was followed?—That was eventually followed in some cases.

3628. I suppose you consider it desirable to have a definite continuous educational policy?—Certainly I consider it so, and I have never seen anything else. The policy of the Education Department has always been a definite and continuous policy.

3629. I am speaking now of secondary education; it is equally desirable there, is it not?—I think equally desirable there.

3630. Do you not think it is more likely to be realised where you have a permanent commission carrying

Mr. *Lowther*—continued.

carrying out such a definite continuous policy than where you have successive changes of parties, who may take very different views with regard to secondary education?—I do not see why experience in matters of secondary education should differ from the experience which I have had myself in matters of elementary education. My experience is that in all matters relating to elementary education the policy of the Department which I represent has been continuous; it has not varied.

3631. It has never been affected by a change of Government?—No, not the continuousness of the policy as far as my experience goes.

3632. Your Department are a good deal subject to political pressure, I presume; you have said so?—Certainly. I hardly know what "political pressure" means; I suppose it means the pressure of individual members of Parliament.

3633. Yes?—Yes, I am constantly in communication with members of Parliament on the subject of elementary education.

3634. In your experience at the Education Office have you not known a great number of schemes hung up in your office in consequence of the political pressure which was brought to bear against them?—No. I can call to mind one or two instances of what you may term political pressure, but I should call it chiefly local opposition.

3635. That is what I mean by political pressure, local opposition concentrated in, focussed in, the representative of the locality who brings what influence he has to bear upon the Minister?—I think if such things did happen I am not prepared to say that under the circumstances the schemes were not properly suspended.

3636. You think it is a good thing then to hang these schemes up?—No, I do not think it is a good thing to hang schemes up if you can avoid it; but I think it would be a very bad thing to force a scheme down the throats of the locality, if the locality were strongly opposed to it, if it can be avoided.

3637. Then I do not follow your "definite and continuous educational policy." Supposing that the locality was strongly opposed to your definite and continuous educational policy, which is to give way, the policy or the locality?—I do not quite follow your question; but the objection of the locality is not as a rule to matters of policy, but to matters of detail. It may be, certainly, to matters of policy.

3638. You do not contend, do you, that since the Acts of 1869, 1873, and 1874 were passed, the procedure has altered at all; the procedure remains the same now, does it not, as it was then; take the year 1874?—You mean that the procedure settled after the Act of 1874 remains the same now as it was then.

3639. Yes?—The procedure on schemes you mean?

3640. Yes?—Certainly, I imagine so.

3641. With reference to the times at which the discussion is taken in the House of Commons on schemes, before the 12 o'clock Rule was passed, did not the discussion upon schemes have to wait until the opposed business was disposed of?—That is a matter of which I am not completely cognisant.

3642. Do you attend at the House occasionally when discussion upon a scheme comes on?—Since I have been secretary I cannot say that I recollect a discussion in the House of Commons on a scheme.

3643. I will put it in the shape of a question: Is it not the fact that the effect of the 12 o'clock rule has been, instead of delaying the discussion upon these schemes, to advance them to a much earlier hour than they used to be taken at before?—I am not cognisant of that.

3644. You spoke of the exceptional judicial powers which you exercise; have you got any judicial staff to carry out those powers?—We have a legal adviser of the Department to advise us on those points, and we can refer questions to the law officers of the Crown.

3645. But there is no legal qualification required of any of the staff of your Department?—A very considerable number of our officers are barristers, but there is no absolute rule that they should be.

3646. They are not required by statute to be so?—They are not required by statute.

3647. With regard to the point which you gave us of whether or not a school board had done its duty, does any construction of Acts of Parliament come into that?—Yes, the Education Act of 1870. There are certain duties imposed upon school boards, and the Education Department is to decide whether the school board has or has not performed those duties. For instance a school board cannot in its schools teach any catechism or formula distinctive of any religious denomination. If any dispute arises as to whether such a formula is taught the Education Department have, under the Act, absolute power to decide; and if they decide that the school board has not done its duty, by allowing such a formula to be taught, they have absolute powers of defaulting it, that is to say, as I expressed it just now, of turning out the school board; and they can put in another school board.

3648. Is that a punishment to the school board which is turned out, or to the parish?—I do not know whether you can call it a punishment, but it is a penalty on the school board.

3649. It might be a relief?—It might be a relief.

3650. It might be a relief to the parish to be rid of the board?—Yes.

3651. Is that the sort of question that you would refer to your legal adviser?—Yes, we might; and if we had any serious doubt we might even go further and possibly refer the question on that point to the law officers.

3652. You would take a legal opinion upon it before deciding?—Yes, certainly.

Mr. *Jesse Collings.*

3653. You were examined by Mr. Lowther on the question of political pressure; might we take it that that pressure, whatever it might be, might be more fitly described as public pressure; public opinion of the locality as distinct from political party

Mr. *Jesse Collings*—continued.

party pressure?—Quite so; I should say that that is a very just distinction, the distinction between public pressure, that is to say, public opinion, and mere individual pressure, or party pressure of a Member of Parliament.

3654. To illustrate my meaning, have you not, on occasions when you have received local opposition to a measure, found that that opposition is often, or sometimes, composed of men of all creeds and all politics?—Yes, sometimes.

3655. In other words, it is the public pressure of the locality?—Yes.

3656. And I think I understand you to say that you, as a Department, are not disposed to cram any scheme down the throats of a locality in opposition to such public opinion?—We endeavour to avoid doing so; and of course we know that if we did attempt to cram a scheme down the throats of a locality in opposition to public opinion a petition would immediately be presented to the Houses of Parliament, and in all probability in one or other House the scheme would be rejected. We are anxious to avoid that.

3657. But subject to that petition that scheme should be laid before Parliament, the Charity Commissioners in connection with the Department have absolute power to override the wishes of the locality, subject, I say, to a petition that the scheme should be laid before Parliament?—I do not quite follow the question.

3658. In other words, the locality, although it might express its opinion very strongly or in any fashion, has not any power to override the decision of the Charity Commissioners with regard to a scheme?—Except by petitioning Parliament.

3659. Except by petitioning that such scheme should be laid before Parliament?—That is so.

3660. Now, Mr. Lowther suggested to you an alteration of the powers which now exist on the part of the Charity Commissioners in Section 40 of the Endowed Schools Act 1869, to submit a fresh scheme to the Department. Those powers they have at present, I believe?—Yes.

3661. This suggestion was that "may" should be altered into "shall." In any case where the Charity Commissioners have their schemes disapproved of by the Department, they "may" offer another scheme; but the suggestion is that that "may" should be altered into "shall." Upon that I want to ask this question: would that do anything more than carry the thing a step further, and cause further delay?—It would at all events have this effect, that the Charity Commissioners would be compelled, if they did not accept the amendments embodied in the declaration, to proceed to prepare another scheme; they could not leave the matter alone; that is the only difference.

3662. But, having prepared a new scheme, the same difficulties with regard to the new scheme would arise as with the old scheme?—No doubt, if it was the same scheme.

3663. Or with any fresh scheme that was objected to by your Department?—Yes.

3664. So that the only result might be that there might be continually fresh schemes being prepared?—Yes.

Mr. *Jesse Collings*—continued.

3665. The powers I mean would not be altered, Now, we have heard a great deal about Parliamentary control, and the importance of it, and even the sufficiency of it. Might we take it that your evidence in that respect is summed up shortly in this, that Parliamentary control over schemes issued by the Charity Commissioners consists in a Government Minister at the head of a Department having the power to reject a scheme, or to approve a scheme?—That is so.

3666. And that in addition to that, in the case of schemes petitioned against, such schemes must be laid before Parliament?—Yes, but the power of Parliament over those schemes when they are laid before Parliament is limited; Parliament can omit any portion of a scheme, or reject a scheme, but it can insert nothing whatever in a scheme. I should like to illustrate it by referring once more to the Cardigan case. In that case the House of Lords, because (as I understand) it was not practicable for them to insert a very few words in the scheme, were compelled to omit all the scholarship clauses of the scheme.

3667. Then in the building up of a scheme, the construction of the details of a scheme, under the present procedents, Parliament has absolutely no power?—Parliament has absolutely no power to insert anything.

3668. And the Department has no power except so far as they can induce the Charity Commissioners to agree to their alteration?—Yes, that is so.

3669. That, we may take it, is the extent of the Parliamentary control over the schemes of the Charity Commission?—That is the extent of the Parliamentary control.

3670. Now you said that schemes are referred to the Judicial Committee?—Yes, under certain circumstances.

3671. The Judicial Committee have power to approve or reject; may I ask if the Judicial Committee have any power to insert fresh clauses, or generally to alter the schemes?—I think the Judicial Committee have only power to decide the special legal points submitted to them. There are special legal points submitted to them.

3672. But not to recast the scheme in any way in the details?—I believe not.

3673. And did I understand you rightly, that when a scheme goes before the Judicial Committee, the Charity Commissioners or their representatives appear before the Judicial Committee in support of that scheme?—I understand that is so.

3674. Have your Department any *locus standi* before the Judicial Committee?—No, I understand not.

3675. Then there is one other point which I did not quite understand, at least I am not sure that I understood it?—I understand it under the Welsh Act, in case of a disagreement between the Charity Commissioners and the Department, the Department, provided they are in agreement with the Joint Committee, might over-ride the Charity Commissioners?—Under the Welsh Act, read I believe with the Act of 1869, alternative schemes are submitted to the Department, a scheme of the Charity Commission and a scheme of the Joint Committee. The Education

Mr. *Jesse Collings*—continued.

tion Department naturally desires when it can to approve the scheme of the Charity Commissioners in order to avoid friction; but in certain cases when the Charity Commissioners have not been willing to amend their own scheme the Education Department have been obliged to disapprove, as they have in some cases, formally the scheme of the Charity Commissioners, and to approve instead the scheme of the Joint Committee modified in accordance with the declaration.

3676. Does not that mean that when the Department have two schemes before them, one of the Charity Commission and the other of the Joint Committee, they have statutory power in case they disapprove of the Charity Commissioners' scheme to reject it and to take the scheme of the Joint Committee?—That is so; that is the power that they have exercised.

3677. And does not that afford a way out of any deadlock caused by disagreement between the Charity Commissioners and the Department?—I think it does to some extent. It at all events has this effect, that the Department have two schemes before them instead of one, either of which they can approve.

3678. Such a power does not exist with regard to schemes other than Welsh and those referring to Monmouth?—No, only under the Welsh Act. There was a power of the same kind under the Act of 1869 for the submission of alternative schemes, but it was never exercised.

3679. Does that power still exist?—It does in certain cases I believe; but it never has been acted upon I understand. That is so much a matter for the Charity Commissioners that we have never been brought face to face with it.

3680. You are not aware if the legal power does exist?—I have never seen a case of that, of a double submission.

3681. Might I ask you as a question of procedure whether, if similar powers were given to the Department, that is to say, powers to choose between a scheme formulated by the locality and a scheme formulated by the Charity Commissioners, when those two schemes are at variance, it would not accelerate the passage of schemes as a mere question of procedure?—I think it is very difficult to say whether the submission of alternative schemes would facilitate the passage of schemes in the ordinary manner as it at present exists.

3682. Would it or would it not tend to do away with the delay caused by local opposition?—It would certainly be a means of placing before us in a very strong light the wishes of the locality.

Mr. *Jesse Collings*—continued.

3683. You spoke of the judicial powers which you possessed of hanging up a School Board or abolishing a School Board; you spoke of those powers as being exceptional. First of all, may I take it that those powers were given to protect the locality and the ratepayers, and the public generally from the misdoings of the School Board?—To protect the ratepayers, to protect the children, and to protect the parents of the children I should say.

3684. Is it within your knowledge that the Local Government Board has almost precisely similar powers with respect to defaulting boards of guardians?—I was not aware of that; I believe that such a power exists in Ireland.

Mr. *Lowther.*

3685. There is one question that I omitted to put when we were speaking of the judicial powers which you exercise; is there any appeal from you to the court?—None.

Chairman.

3686. One or two final questions, if you please. Speaking as the permanent and non-political head of the Education Department, do you wish us to take it from you that there has been no difficulty in preserving continuity of policy in that Department whatever the political changes may have been?—That is so; I wish you to take it in that way.

3687. With regard to the words, "I approve," I suppose it has been your duty and the duty of others in your Department to lay before the vice-president papers on various matters which he endorses with his approval?—Certainly.

3688. Do you suggest to us that where he uses the expression, "I approve," in relation to the schemes of the Charity Commission, on the Endowed Schools side, he does it with a different meaning from that which he uses when he endorses papers in that way relating to his own Department?—If I had to write those two words, "I approve," on the different papers, I should feel that I attached an absolutely different sense to them.

3689. An absolutely different sense in the one case from that which you attached to them in the other?—That is what I should feel; I do not know what the vice-president does.

Friday, 22 *June* 1894.

MEMBERS PRESENT :

Mr. Egerton Allen.
Mr. Jesse Collings.
Mr. John Edward Ellis.
Mr. Freeman-Mitford.
Mr. Howell.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

The Right Hon. JESSE COLLINGS (a Member of the House), Examined.

Chairman.

3690. I THINK you entered the House of Commons in 1880?—Yes.

3691. And you have been a member with a very brief interval ever since?—Yes.

3692. You have given much attention, I think, to the work of the Charity Commission, and gave evidence before the Select Committee on Charitable Trusts Acts in 1884 at great length?—Yes; I was examined three days.

3693. You were also a member of the Select Committee on the Endowed Schools Act, 1869, which sat in 1886 and 1887?—Yes.

3694. You gave evidence also before that Committee?—Yes. I was examined at length before that Committee.

3695. Perhaps I may take it that your evidence this morning falls under two heads, namely, with regard to the administration of the Acts, and the legislative amendments which you think are required?—That is so.

3696. Then if you please we will take the administration first. Will you kindly give us what you desire to say on that subject?—In my remark on the administration of the Acts, I wish, with the permission of the Committee, to confine myself to the consideration of one main result of that administration; that is to the manner in which it has affected the poorer classes of this country.

3697. In what manner do you consider that it has affected the poorer classes?—I contend that it has inflicted the greatest injustice on the poorer classes by depriving them of rights and privileges in connection with charities and endowments, by means of schemes framed mainly to the advantage of the well-to-do and richer classes. I have described that system in the House of Commons and elsewhere, and I have thought myself warranted to describe it as a system which, "during the past 25 years, has been a system for the spoliation of the poor."

3698. And you adhere to those words now?—I adhere to those words. I may say that I understand the Committee does not require examples in support of this statement illustrating the policy of the administration. I gave

Chairman—continued.

examples very fully in my evidence before the Select Committee in 1884, and again in 1887, which are fully set out in the Report, and to which I consider, on the particular head I am dealing with, no adequate answer or disproof has been given.

3699. You also made a speech in the House of Commons, when the Estimates for the Charity Commission came before the House in last Session on 9th September, 1893, did you not?—I did.

3700. And you moved the reduction of the Vote by 5,000*l.*?—I moved the reduction of the Vote for the Charity Commission by that amount.

3701. And you were supported in that motion by the Official Opposition, Mr. Balfour and Mr. Chamberlain voting with you, and the official Whips, Mr. Akers Douglas and Sir William Walrond telling on that occasion in favour of your motion?—That was so; I think there was support which might be described as being of a general character; but seeing, as honourable Members are aware, that the Estimates must be carried, there was no chance of carrying the amendment.

3702. Of course, on the other hand, the Estimates were defended by the Government of the day, and by their official Whips telling?—The Estimates were defended as Estimates necessary to be obtained rather than on the ground of the soundness of the policy or the action of the Charity Commissioners.

3703. Will you give us, with strict regard to the limitation which you have indicated, what your general view is of these charities?—My general view, which I hold very strongly, is that all endowments and bequests made for the poorer classes should be regarded in what I might qualify as the most sacred manner, both by legislation and by administration; that they should not in the slightest degree be diverted for the use of any other class than the class to which they were bequeathed.

3704. What would you do with charities which most people, I suppose, and probably you yourself

Chairman—continued.

yourself would hardly consider necessary any longer; I mean for the specific purpose for which they were left?—Take the case, for instance, of free education, which is one of the class you name. Up to the passing of the Free Education Act, the general policy of the Charity Commissioners was to destroy all free education, and to impose on children the payment of fee. I consider that that was not a just policy. I am not aware that it was one imposed by any statute; and in addition to the wrong inflicted from a financial point of view on the poorer children, it was a humiliating provision; because the poor children were practically told, "If you want your fees paid in the place of the free education that has been taken away from you, you must apply to the Board of Guardians (as the Act of 1870 directed) in order to get your fees paid." In fact their privileges were taken away, and they were referred as a reparation to a source which more or less pauperised them, which many of them felt was a method of pauperising them. Therefore I contend that every penny so set free, as it were, by the passing of the Free Education Act of 1891, should be still kept intact for the benefit of these poorer classes for whom it was originally intended, and that those sums should not be diverted in any way for the benefit of any other class whatever.

3705. Do you wish these remarks to cover charities, whether educational or otherwise?—Yes. I am glad you have asked that question, because I want to make it clear that I make no distinction whatever between educational charities and other charities. All advantages, in whatsoever form, that are bequeathed to the poor for their use, ought to be jealously guarded for their use for all time.

3706. Is there anything you desire to say to us with respect to the action of the Charity Commissioners as to Doles?—Yes. I regard doles as bequests made by charitable persons for the benefit of poor people to be dealt with, either in money or kind. I am aware that in some localities where the amount to be distributed has become excessive, and the population from one cause or another has dwindled, there might be an excess of poor persons, and a state of things existing in those localities in which it would be advantageous to alter the form. These cases, however, as far as my experience goes, are comparatively rare. In the great majority of cases the benefits are very useful. They are given, I am aware, sometimes in money, very generally in the form of an annual treat; and looking at the great poverty of the recipients, especially in the rural districts, I am not prepared to assent to any scheme that shall take them away. I am acquainted with the manner of expenditure of these doles; I have many and many a time joined in the enjoyment of the dispensation of them; for instance (this is a very common case), the St. Thomas's Day Charities. The Charities of St. Thomas's Day (which comes a few days before Christmas), are dispensed in what you may call an annual treat, which is regarded by the labourer as a Christmas treat, and I believe that they give an enjoyment to the poor people which they value, and which can be obtained in no other way.

Mr. *Howell.*

3707. You used the term just now "excess of poor persons"; I am not sure whether you meant that?—What I intended to say was that under the altered circumstances, where the population from one cause or another has greatly dwindled in number, and at the same time the endowments for doles have become comparatively excessive, in such cases an alteration of the form might be desirable.

Chairman.

3708. Have you anything more to say about doles?—I might say that they are almost universally valued in the localities where they exist. I think we have heard from the Commissioners themselves that wherever an attempt is made to abolish them that attempt is met by the most bitter opposition, and where they have been abolished there is a sense of injustice (I know it from experience) rankling in the minds of the people, and therefore I contend they should never be taken away, except with the consent of the people whom they affect. I am aware that there is a great deal spoken about the demoralisation of those doles, but doles exist largely with the wealthier classes. Every scheme of the Charity Commissioners almost is a scheme for the creation of doles for the wealthier classes; and I do not see why we should harp on the demoralisation caused by doles for the poorer classes and say nothing about any possible demoralisation that might result from doles enjoyed by the wealthier classes.

3709. Have you gathered, so far as your experience goes, any particular object of the Charity Commission in dealing with charities?—Well, it seems to me that the object of the Charity Commissioners (I am including the Endowed Schools Commissioners; I am speaking of the Commissioners as a whole), is to devote all funds that they can lay hands on within the limits of the statutes by which they are governed to middle and higher class education, that is to build up a system of secondary and higher education in this country, by means of these endowments which are so largely in my opinion the property of the poorer classes.

3710. You hardly wish us to infer that you are opposed to education, I presume?—On the contrary, I have been all my life in favour of all kinds of education, and no one is more in favour of a well organised system of secondary education than I am. My only objection is that such a system should not be carved, mainly as it is, or to such an extent, out of the inheritance of the poorer classes. I might add to that that it seems to me the process now going on is the process which we are very apt to condemn in olden times, with regard to some large foundations, Eton and Harrow, and other old schools, where the poor we know have been squeezed out from any part in the foundations. We are carrying on precisely that process now, and future generations will be able to point to our legislation, and the administration of such legislation, as the means by which fresh great schools were built up from which the poorer classes were excluded.

3711. Now coming to the recommendations of the Committee in 1886–87, I suppose you concur

Chairman—continued.

in this; would you say that it is as desirable as it was when it was made, it is on page 13 of their Report, at paragraph 13, which runs: "Greater publicity with respect to the proceedings of the Commissioners in regard to schemes should be given during the initial and subsequent steps, especially in the district affected by such schemes"?—I thoroughly agree with that, and I think every means should be taken to make the schemes known as widely as possible by means of local newspapers, by means of local authorities, and any other means. But, in addition to that, I would recommend that there should be no draft scheme issued without bearing on its face a *précis* of the original trust with which that scheme deals, so that the public and the local authority or anyone interested might see what diversion of the original trust, if any, was proposed to be made.

3712. Do you think that sufficient regard is now paid to the wishes and sentiments of the people in the locality?—I do not. I am sorry I cannot agree with the statement of Mr. Richmond in his answer to Question No. 991, where he said "we try as far as we can not to go far beyond the sentiment of the place"; and, in answer to the next question, "we try to consult the wishes of the locality." My experience, and it is rather a wide one now, extending over the period since 1881 in connection with the Charity Commissioners, shows me that in many cases the wishes and sentiments of the locality are almost disregarded. Those wishes and sentiments are often treated with a high hand, and in times past have been treated in a very arbitrary manner; and in many cases, some cases which I had a great deal to do with, it was only after a long and bitter controversy, by an angry display of public feeling in the localities, that the Charity Commissioners have been induced to give way. In small places where, as a rule, no such display of opposition can exist, I am afraid that the schemes have gone through in consequence.

3713. Have you any remedy to suggest?—The remedy I would suggest is the necessary alteration of the law, whatever might be considered necessary; but with regard to the administration, I would place the initiative of all schemes in the hands of the local authorities of the districts affected; for instance, in boroughs in the hands of the town councils; in counties, say, in the hands of the county councils; but in doing that there should be a condition that these local authorities should always have a local inquiry, an open public inquiry, before any draft scheme was decided on, because my experience is that public inquiries held in the localities are of the utmost use especially when held by the local authorities themselves. Everyone feels himself at liberty to attend.

3714. I suppose again you would wish to endorse (having been a member of the Committee whose views are embodied in the Report) paragraph 14 on page xiii. of the Report of the Committee of 1886–87: "It is expedient to associate in some formal manner with the central authority in the preparation and administration of schemes, provincial or municipal bodies of representative character"?—I go a little further than that recommendation in this respect, that I would allow them to initiate the schemes after consulting with the people affected. But I might add to that, that with regard to any alteration in legislation these local authorities even should be prevented by statute, as far as legislation could prevent them, from doing anything to divert funds from their original purposes as far as they are intended for the poorer classes.

Chairman—continued.

3715. Is there, in your opinion, any other defect in the present procedure of the Charity Commissioners in regard to which an alteration is needed?—On that last point (powers of local authorities) I may say that I agree with the opinion of Lord Lyttelton, quoted by Mr. Richmond on page 54 of his evidence. Lord Lyttelton, who was chairman of the Endowed Schools Commission at that time, in his evidence given before the Select Committee of 1873, strongly supported that view (I will not repeat the quotation now), and also it is a view which follows on the lines of the Report of the Schools Inquiry Commission of 1868.

3716. Now, is there any other defect in the present procedure of the Charity Commissioners that you wish to call our attention to?—No, I wish to speak of no other defect besides the particular point to which I have confined myself.

3717. Is your opinion in favour of a more effective Parliamentary supervision and control of the Charity Commission?—My opinion is in favour of a really effective Parliamentary control over the proceedings of the Charity Commissioners.

3718. I suppose, being a member of the Committee and taking part as you, of course, will be able to do, to the advantage of the Committee, in the preparation of the Report, and in agreement as to the Report, you would hardly wish to commit yourself now to any precise plan or scheme?—No.

3719. Perhaps you would say whatever you think proper under that limitation?—I have heard the suggestion that there should be a responsible Minister of State who might be called Minister of Charities and Education; but I should not like to commit myself either for or against that suggestion without further consideration. My own opinion is that it is of the utmost importance as far as possible to keep schemes for dealing with charities, while fully open to public opinion and public influence, yet outside the influence, I will not say of politics but of party politics; I consider that at present (this is my own opinion) Governments do not consider themselves pledged to support schemes brought before Parliament; they are not considered fully as in the light of Government measures demanding party support, and when any address is moved in opposition to a scheme laid before Parliament, members are supposed to vote more or less free from party considerations. I might give an example of this in the case of the Dauntsey Charity at West Lavington. The scheme of the Charity Commissioners was petitioned against; it was laid on the table of the House, but it was defeated with the concurrence of the Government of the day, the leader of the House, Mr. W. H. Smith, being opposed

Chairman—continued.

opposed to the scheme and desiring it to be defeated.

3720. The then First Lord of the Treasury was opposed to the scheme, I gather?—When explained to him he assented to the defeat of it.

Mr. *Lowther.*

3721. What was the date of that?—It was about 1889, I think.

Chairman.

3722. Is there any more you desire to say upon that?—There is another means of exercising Parliamentary control which I simply suggest for the consideration of the Committee, a plan which has been suggested to a certain extent before, that is to have all schemes, no matter whether they are educational or schemes dealing with other classes of charities, when finally agreed upon by the local authorities in connection with the Charity Commissioners referred to a Standing Committee of the House of Commons appointed for that purpose. That Standing Committee would report the scheme to the House with or without modifications, and recommend the House to approve it with such modifications, if any.

3723. There is a similar Standing Committee appointed each year for the consideration of schemes for the regulation of commons?—Yes, I can recite the procedure if it is wished; it is very short. The Committee is appointed every year, and it is ordered: "That a Select Committee be appointed to consider every report made by the Board of Agriculture, certifying the expediency of any Provisional Order for the enclosure or regulation of a common, and present it to the House during the last or present Sessions, before a Bill be brought in for the confirmation of such Order."

3724. Then in that case the matter comes before the Committee from a Government Department, namely, the Board of Agriculture, which has a responsible Minister in the House of Commons?—Yes, and it is recommended in the form of a Provisional Order. But I would regard a scheme in the same light as a Provisional Order, regard it as an Act to be confirmed by Parliament, as a Provisional Order is.

3725. But, according to your suggestion, the scheme would not come before that Committee from a Government Department?—No; it would have to come direct from the Charity Commissioners after the Commissioners had approved the scheme in conjunction with the local authority who had initiated the scheme.

3726. You have used some important words, "who had initiated the scheme"?—Yes. I said in my previous evidence that I would put the initiative in the hands of the local authority.

3727. That is a part of the system which you are suggesting, that the initiation should lie with the local authorities?—Yes, in connection with the Charity Commissioners. I have made inquiries with respect to the Commons Standing Committee and cannot ascertain that in the past 20 years (I believe the rule of the Standing Committee was originated at the suggestion of the

Chairman—continued.

late Mr. Fawcett) a single scheme when it has passed the ordeal which I have referred to, has been rejected by the House of Commons.

Mr. *Howell.*

3728. Was there not a scheme that came before Parliament in 1886, rejected by the House of Commons, which came from the Select Committee?—The honourable Member may be right.

3729. I allude to a case when Mr. E. North Buxton moved the rejection of the Report, and I seconded the Motion?—The honourable Member may be right. I have made the best inquiries I could from those who have great knowledge of the proceedings of the House, and I am informed that as far as they know there has been no enclosure scheme rejected by the House which the Committee had passed, but it is difficult to remember.

Chairman.

3730. I understand that you wish specially to guard yourself as making this suggestion tentatively; you do not wish to commit yourself now to a final decision upon the matter?—With regard to the kind of Parliamentary control I do not wish to commit myself.

3731. You reserve your liberty?—I reserve my liberty, because it is a question that will require great consideration. I only insist on the principle that there should be effective Parliamentary control.

3732. I only want to ask you if you safeguard your rights as a member of the Committee?—Certainly.

3733. Will you pass now to any legislative amendments you wish to suggest?—First of all (and this is a point on which I have, and always have had a very strong opinion), I would have Clause 30 of the Act of 1869 repealed, so that the Charity Commissioners should no longer be enabled to divert non-educational charities to educational purposes, unless it be for educational purposes directly affecting the class to whom the charities belong, which can be done without a clause of that sort. I am aware that this clause is only a permissive one, as I read it, but I believe that under it for years past the poorer classes of this country have been deprived of their rights and privileges to a very large extent.

3734. Is there any other alteration you desire to bring before the Committee?—I think I should say the same with regard to Section 29 of the same Act. There are a large number of charities attaching to an educational charity or endowment; they are in various forms, clothing, apprenticing, setting out in life or otherwise. I lay great stress on the word "otherwise," because it allows trustees to do almost anything for the poorer classes for the benefit of poor children, and other means of advancing the poor in life. I would make the same remark with reference to that Clause 29 as I have made with regard to Clause 30.

3735. Perhaps you will proceed with any further suggestions of alterations which you think desirable?—I would also go further and say that in past schemes where a diversion of

Chairman—continued.

charities has taken place in the manner I have described, although I fear that nothing could be done in the majority of them, yet where possible fresh schemes should be framed restoring the property and the privileges for the benefit of those classes for whom they were originally intended.

3736. Have you anything to say with reference to the removal of the 50*l.* limit?—Well, I am strongly opposed to such removal under present circumstances.

3737. "Under present circumstances," you say?—I am opposed to it unless and until the fullest safeguards are provided for the protection of the rights and privileges of the poorer classes in connection with charities. My own opinion is that the existence of the 50*l.* limit has been the means of saving a large amount of the existing charities; and this effect of it justifies in my opinion the fears expressed in Parliament during the passing of the Act when the limit was imposed.

3738. Now passing from that, I think you desire to say something to us as the author of the Allotments Extension Act of 1882, with respect to that Act?—Yes. I have devoted an immense amount of time both personally and by means of associations which have been created for the purpose of endeavouring to put that Act in operation. The object of that Act, if I may state it shortly, in case the Committee should not remember it, is to compel trustees of charity lands (other than educational, ecclesiastical, and apprenticeship) to offer such land to the labouring population. The fourth clause is mandatory: that the trustees are compelled (whether asked or not by the labourers) by the Act to offer the land to the labourers. Under Section 10, in case the trustees decline to put the Act in operation, any four labourers may apply to the Charity Commissioners, who shall first make an inquiry, and then they may enforce the provisions of the Act by Order. Under Section 9 the Charity Commissioners have power to disallow or alter rules made by the trustees with regard to allotments. Under Section 11 the Charity Commissioners can give to trustees certificates of exemption releasing the land from the operation of the Act, although they are not compelled (as they were compelled in the draft of the Bill), to give any reasons why they give such certificate, but their decision is final. Section 14 enjoins that the Charity Commissioners shall, in all future schemes relating to any charity, make provision, authorising the trustees to set apart land for allotments. Those are the main points of the Act.

3739. Do you consider that the administration of that Act has been satisfactory, and if not, in what respect has it been unsatisfactory?—I consider that the administration of the Act has been unsatisfactory, and I might say that an Act, dealing as it does with such purely local matters in remote villages, often with a small portion of land, cannot, in my opinion, be satisfactorily administered by any central authority, no matter how well disposed they might be towards it; but I consider that the Charity Commissioners have been very lukewarm, and have not sufficiently enforced the rights of the men under that Act.

Chairman—continued.

3740. Can you give us anything rather more particular in regard to that?—I have pointed out that fully in my evidence on a previous occasion. The objections to the administration consist generally in causing interminable delays, in inclining too much to the views of the trustees; in issuing certificates of exemption where the land in the opinion of labourers and others ought not to be exempted under the Act; in allowing trustees to let land on lease, by which the Act is evaded; and in allowing unsatisfactory rules to be made by the trustees. In short, if the men had been left to the Charity Commissioners without outside aid, without the advantage of a powerful association, my own opinion is that the Act would have been practically a dead letter.

3741. Do you consider that in any other respects, and if so what, the administration has been unsatisfactory?—Yes. In Section 14 the Charity Commissioners are enjoined in future schemes in relation to any charity to insert in such schemes provisions authorising the trustees to let land in allotments. Now the Charity Commissioners have contended that that provision refers only to schemes made with relation to lands, the proceeds of which go for doles and other matters as put forth in Section 4 of the Act; but my own opinion is (and it is fortified by legal opinion) that the clause in the Act saying "any charity" administered by the Charity Commissioners refers to educational charities as well, in fact to all classes of schemes which they might make; but I might add that even in the dole schemes the Charity Commissioners have in some cases omitted to insert the clause as directed by the Act, although I believe they do it regularly now.

3742. You gave a great deal of evidence on the subject in 1884; you wish to refer us, I suppose, to that with regard to specific cases?—Yes; specific cases which were set forth at length in my evidence on that occasion. I have further evidences of delay and unsatisfactory administration as far as the labourers are concerned; I have further cases if the Committee wish to have them.

3743. Do you desire to give us any one case as an illustration?—Yes, if the Committee like to have it. Might I be allowed to interpose two remarks here? I am aware that I am speaking strongly of the policy and administration of the Charity Commissioners, but I wish to make it clear that my remarks are not directed against the Charity Commissioners personally.

3744. We understand all through that the personal element is out of it?—But I should like to get it on record if I might. I regard them as men standing very high in the public service, sincere and conscientious; and I am sure that since the advent of Sir Henry Longley as chief, to my knowledge things have been improved to an enormous extent, both in manner and breadth of view, and I would extend that remark to the secretary than whom there is hardly a more valuable public servant; and therefore my remarks tend solely to their administration, which I think is a mistaken one; and also to the fact that in my opinion they are placed in an impossible position, they are required to do what is impossible to do almost,

Chairman—continued.

almost, looking at the legislation and the requirements of modern times.

3745. Now, perhaps you would kindly give us that one case?—I will take the case of Mendlesham, in Suffolk; I am not going to refer to 1887 further than to say that men already possessed land under the Act. But in 1888 more applicants came forward, each wanting an acre, each offering to give 30s. an acre; the trustees resisted that, stating that it would be a substantial loss to the Charity. Now at that time the tenant of that land only paid 1*l.* an acre. This was in March, 1888. On August the 10th there was a local inquiry by the Charity Commissioners, in which the men were shown to be willing to take the land. On the 29th I wrote to the Charity Commissioners conveying the views of the assotion of which I was chairman. On September the 19th the Commission wrote to say that they had given orders to the trustees to set out the land in allotments. On December the 19th, having ascertained that the men were still without the land, I urged the Commission to give the matter attention. We come now to 1889, January 9th, when the Commission replied that certain land had been set out, but the Commissioners were not aware that there were more applicants. That reopened the whole question with which we started in March, 1888. Then on January 29th, having ascertained that the men had not yet received any of the land, I urged the Commissioners to push the matter forward. On the 30th the Commissioners replied that the matter should have their attention. In May, 1889, I wrote Commissioners to know the position of the case, as there appeared to be unnecessary delay in attending to the matter. On May 24th the Commissioners replied that certain lands had been allotted; that the remainder of the estate had been let on lease for seven years, because if more land were allotted trustees would not let remainder of estate, and so "a substantial loss to the charity would ensue," and that the lease could not be set aside. Now the labourers were willing to take the whole of the land at 30*s.* an acre instead of the 20*s.* which was paid by the tenant. But what I want to point out is that here is a case lasting from March, 1888, up to July, 1889, which I may call the ending, because I then asked a question in the House of Commons and got the reply that the land was let, and there the matter was ended. So that after all this period of time the men do not get the land and the trustees had their way by letting the land on lease. I do not wish to blame the Charity Commissioners, because as I have stated before it is impossible that a central authority can cope with unwilling trustees in a locality.

3746. That rather indicates what you would suggest as the remedy, does it not?—You ask me a remedy for this state of things?

3747. Yes?—I would adopt the following remedy. I might state that in the original draft Bill the appeal of the labourers from the trustees was to the County Court. That was altered, I believe, at the wish and under the influence of the Charity Commissioners, to the Charity Commissioners themselves; and hence, I fear, the difficulty of the administration, but, however, as a remedy I would give the administration of the

Chairman—continued.

Act into the hands of the County Councils. They have after some considerable experience been found favourable to allotments; they know all the local circumstances, and they very probably know the very land that is in dispute; they are the best judges of the fitness and nature of the land; they know the trustees and could verify all the statements made on the spot, and the trustees are not likely to dispute the action of the County Councils, most of the members of whom know probably all the facts connected with the land. It would be more satisfactory to the men, who at the present time (I am bound to say from a very large experience) have not much hope of the administration of the Act as long as it is placed in the lands of any central body.

3748. The men you think want a de-centralisation and localisation of it?—Yes, localisation. They have faith in any one on the spot, but from their experience they have very little hope under central administration. The result is that in many cases the men have ceased to make applications or to continue applications.

3749. Have you any further reforms to suggest in the administration or in the legislative provisions?—I think there is one further reform: that the Charity Commissioners should not permit trustees to sell charity lands unless under the most exceptional circumstances. I speak now of what is a strong feeling in the villages; for probably social and sentimental reasons, the labourers look on such land sold as a wrong done to themselves. There is a very deep sentiment in the localities against poor lands and charity lands being sold to private owners.

Mr. *Lowther.*

3750. That is speaking generally, irrespective of this Act, that no land belonging to charitable trusts should be sold?—I will go as far as that, but I am confining myself now to the Act of 1882, though I perfectly agree in the extension of my remarks in the way that you suggest. What I mean is that under the Act of 1882 the Charity Commissioners, or whoever has the administration of the Act, should not allow trustees to sell land except under very exceptional circumstances.

Chairman.

3751. Does that complete what you desire to say with regard to the Allotments Extension Act?—Yes.

3752. Have you anything to add with regard to your general evidence?—No, I think I have completed what I have to say. I have confined myself to the particular point with which I started. I could state that there are many points in which the Charity Commissioners have done good service if I might refer to outside questions, such as the preservation of charities and keeping the corpus of charities, but I leave that out for the sake of time, and confine myself to one point. As a concluding remark to illustrate the position I take, I may say that I was much struck by an expression of Sir Henry Longley's in his evidence, when he stated that the State should guard with the most jealous care the rights and privileges of the charities, and he said "in the same way"——

3753. Could you refer us to the number of the Question?—Yes; it was No. 251. He said: "In

Chairman—continued.

the same way as the Crown extended protection to infants and lunatics" (they were words that struck me very much), "so it extended protection to charities, all three of them being supposed not to be very well able to take care of themselves." I believe that principle is well expressed, but I contend that it has not been carried out in the administration of these Acts.

Mr. *Freeman-Mitford.*

3754. I should be much obliged if you would tell me what you meant by an expression which I did not quite understand in the earlier part of your evidence. When speaking on the matter of doles, you talked of the doles enjoyed by the rich or words to that effect; I did not quite know what you meant by that?—Well, I take the schemes formed under the Endowed Schools Acts. To me it is as much a dole to give a rich man an education for his child that is worth 30*l.* or 40*l.* for 6*l.* as to give a poor man 5*s.* or a good dinner. We see it in Birmingham; we see it in Bedford; we see rich people, well-to-do people, educating children for about say 3*l.* to 10*l.* a year, receiving an education which costs perhaps 20*l.* or 30*l.* or 40*l.*; and the balance in that case is made up to a large extent from funds belonging to the poor, whereas in the case of the doles of the poor they are at least enjoying their own money.

3755. Is that so in the case of all those schemes that you have mentioned; were they not originally charities in most cases attached to conditions of residence?—No, the original charities made the benefit of the poor a very prominent part in the bequest.

3756. In the case of Bedford the residential qualification is the point?—That might be so; but there is a great stress put on the fact that poor people crowd into localities where there are charities to be dispensed, and that is reckoned as a kind of demoralisation. I think the same applies to well-to-do people who crowd into Birmingham or Bedford in order to get advantages which, if they cannot be called doles, yet partake of the same principle. And, therefore, when we talk of the demoralisation of one class and the crowding of that class into localities for the sake of what they can receive, we ought to apply the same observations to the wealthier classes. I do not apply them to either, but if applied at all I wish them to be applied to both.

3757. I understand from you that you are distinctly in favour of doles to the lower classes?—As long as they wish to retain them, and, as I stated, with any modifications which, in the exceptional circumstances which I have stated, might appear to be necessary.

3758. With regard to these charitable endowed schools of which wealthier persons take advantage, is not the mere fact that those people come and live in those localities an advantage to the poor people dwelling in those localities; it gives employment and sends money there, and it does some good; it is not altogether an evil?—No doubt. I should not have referred to it but as a parallel case; the position is on all fours with the doles connected with the poorer classes. I quite admit the advantages, and I am not complaining of the advantages at all.

Mr. *Freeman-Mitford*—continued.

3759. Then, with regard to the particular village in Suffolk of which you spoke, Mendlesham, you said that the trustees were averse to granting the land to the labourers at 30*s.* an acre because the charity would suffer?—Because there would be substantial loss to the charity.

3760. I presume that you would hold that any loss that there might be to the charity would be more than counterbalanced by the advantage that would be gained by the men in getting the allotments, those men being the very persons for whose benefit, according to your theory, the charity was originally instituted?—Personally I agree to your proposition, but I must add to it that there is not the remotest chance in this case, or in any other case that I have examined where the same plea has been put forward there has not been the remotest chance of any substantial loss to the charity. On the contrary rents of allotments are higher as a rule, and they are as punctually paid, to say the least of it, as those of land let to farmers.

3761. Perhaps more punctually paid?—Perhaps more punctually paid. Certainly here in this case the labourers were willing to put 50 per cent. on the rent which, though it would include the rates and outgoings, yet would still leave the rent considerably higher than the trustees were then getting.

3762. You would have to recoup the trustees for any loss sustained in fencing the land and so forth?—That would have been included in the increased rent and would, in my own opinion, have left a larger net income than the income from the land let as it was at 1*l.* an acre.

Mr. *Howell.*

3763. In the earlier part of your evidence you spoke about absolutely keeping the whole charities left for education and otherwise for the poor to whom they were left. Let me put this question: You know the great change which has taken place with reference to elementary education and also with regard to the Free Education Act, considering that the poor have now advantages under the Elementary Education Act and under the Free Education Act compared with what they had previously, do you feel that the circumstances are so far the same as not to modify your opinion on that subject; or do you still think that, notwithstanding that, the educational endowment for the specific benefit of the poor and the doles for the specific benefit of the poor should be maintained as they were originally intended?—I do not modify my opinion at all. If the State decides as a question of national policy to give free education to all classes who come to the public elementary schools, that forms no reason whatever why the sums that have been left for free education to a certain class should be diverted for any other class; but the same sums should be carefully guarded for the good of the same class in some other form.

3764. With regard to the apprenticeships left under many bequests, would you still apply the sums left for apprenticeships in the same way as originally intended?—Well, I understand that the practice

Mr. *Howell*—continued.

practice of apprenticeships has gone out. The honourable Member will know more about apprenticeships than I can know, but if there was a demand for apprenticeships I certainly would keep that application of the money. If there was no demand for apprenticeships I would expend the money in some form to benefit the same class.

3765. You would not consider that diverting it from the original intention?—No. If there was no demand at all for apprenticeships of course it could not be spent in that direction, but the amounts should then be kept for the same class whom the original apprenticeships were intended to benefit.

3766. You spoke with regard to the restoration of charities. Take as typical cases, Christ's Hospital, Charterhouse, and St. Paul's; we know that in all those cases provision was made for the education of the poor; in what way do you suggest that there would be, or could be, a restoration?—I think I stated that the difficulties in most cases would amount to impossibility. It is almost impossible to pull down institutions which are doing so much good as institutions, but I stated that if there were cases in which these charities could be restored to the class for whom they were intended, we ought to restore them.

3767. There are exceptions, in point of fact?—Yes; a second class or higher class school once built upon, no matter on what foundation, is doing such good work that it would be a strong measure to interfere with it. What I want to do is to stay the progress of founding these institutions by means of funds that belong to the poorer classes.

3768. You spoke more specifically of difficulties with regard to allotments; were not those difficulties as given in evidence by you to a former Committee difficulties caused mainly by the trustees rather than by the Charity Commissioners?—The difficulties almost in every case arose from unwilling trustees; and the only way to overcome that unwillingness was an appeal to the Charity Commissioners; and my complaint is that the result of these appeals have not been satisfactory. I might add that there are a large number of trustees who have been willing to let their land in allotments and have done so; and those we never hear anything about, of course.

3769. But to refer to what was stated before that Committee, is it not a fact that the Charity Commissioners as a rule strongly insisted upon the appropriation of lands to allotment, and it was resisted by the trustees even to the point of resignation?—I believe there were one or two cases in which the trustees threatened to resign; but that I reckon is no argument whatever in justification of the Charity Commissioners if they need justification; because the Charity Commissioners have power to create other trustees in their place.

3770. The point I wanted to put to you was particularly in relation to the allotments; did not the difficulties arise locally with the trustees and not with the Charity Commissioners themselves?—Certainly, because failing the unwillingness of the trustees the matter would never come before the Commissioners at all.

Mr. *Oldroyd.*

3771. In your suggestions for the future management of charities you suggested that the initiative should, in all cases, be left with the local authority?—Yes, with certain safeguards.

3772. But the initiative you would rest in the hands of the local authority?—Yes.

3773. Do you not think that it would be wiser to make the process wider by conferring equal power on the Commissioners and on the local authority to initiate a scheme?—No, for this reason; that the local authorities are naturally so much better acquainted with the wants and needs of the locality, and therefore I would allow the initiative to be with them. At the same time it is necessary for the Charity Commissioners or somebody to review their schemes as to form, and as to legality, and so forth: but the main provisions of the scheme should be initiated with the locality.

3774. But do you not suppose that in the remote villages to which, in your evidence, you have referred, there may be such apathy and lack of information and knowledge on these matters, that the local initiative would be a dead letter in those cases?—I spoke of the initiative of the county authorities, the county council, which has a larger area; and I think I stated that before the county council initiated the scheme they should hold a local inquiry in the particular district within their government, to which that scheme specially related.

3775. Going next to the statutory limitations which you have suggested, providing against diversion of these charities from the poor, do you not think that the publicity which you suggest (and which I think the Committee generally approve) would be a sufficient protection against the illegitimate diversion of funds?—I do not. It has proved not to be sufficient.

3776. Then, even on your own suggestion of putting the initiative entirely in the hand of the local authority, you still would not have sufficient confidence that the local authority would not cause this diversion?—My answer is this: the local authorities are a representative body; they are in close touch with the people; and after they have held conferences and public meetings in the special parish or locality to which the scheme relates and formulated the scheme, I know of no other machinery that is so likely to prevent abuse. If there is any further machinery I would adopt it. But I would add (if I have not already stated it) that even in the case of local authorities there should be statutory safeguards to prevent them, as far as those safeguards could be made to prevent them, going outside certain lines in the direction of diverting property from one class to another.

3777. But do you not think that the statutory safeguards must, from the necessity of the case, largely remove the elasticity, which I judge in your opinion is desirable in the formation of these schemes?—Well, the statutory provisions in the Endowed Schools Act, which to read them are very stringent, have not been at all sufficient to prevent a very wide latitude in dealing with those funds.

3778. Then I note that you think that the statutory limitations against diversion would be

Mr. *Oldroyd*—continued.

necessary, notwithstanding first of all that there should be local initiation, with general publicity, and accompanied by a further check, that of reference to the Standing Committee of this House?—Yes; in other words I would take every possible means to prevent the diversion of funds, which diversion having once taken place the funds are as a rule lost for ever to the poorer classes of this country, who in their present condition need every penny to help them.

3779. Referring to your evidence in regard to the administration of the Allotment Act, you said that you considered that it could not be well administered in the interest of the labourers by any central authority?—I do not think it can, for the reason I have stated, that there are so many points of detail.

3780. And you spoke of the County Council as the suitable authority, a decentralised authority?—Yes.

3781. But being put into possession of parish councils, would you not think them fit for the purpose?—I am not very particular which local authority. The labourers have great faith in the County Councils on the question of allotments for the simple reason that their action under the Act of 1887 and 1890 has been so satisfactory; and there are cases in which allotments might extend into two or three parishes, or allotments in one parish might be required by the inhabitants of another, and the County Council having jurisdiction over the whole of them and being favourable, and looked upon by the men as favourable, would be a good authority I think to administer the Act.

Mr. *Egerton Allen.*

3782. I fully agree with you in thinking that funds left for the poor should not be spent on any other class; but I understood you to say that sums left for the poor to help them in directions which are now provided for by the State may be spent for the poor in some other form?—Yes.

3783. Do you think any wrong would be done to the founder of a charity by diverting the funds in consequence of the ground being covered by the State to another purpose?—No; because the object of the founders, as stated in many of their wills, is primarily to benefit a class, and they fixed on education as what then was almost the best way to benefit them; though material condition of the poor at that time was also provided for; and, therefore, they would be the first to say, "It is no longer necessary; keep by all means the same class as the class who are to be benefitted, but change the form of it according to your new view."

3784. Would that same principle seem to you to apply to dividing money left for the supply of bread and small sums of money on the grounds that the State has since the Act of Elizabeth undertaken the support of the poor?—It would apply to everything left, whether bread or anything else.

Mr. *Lowther.*

3785. You have always been strongly against any touching of doles, have you not?—Subject to the limitations which I have just named.

Mr. *Lowther*—continued.

3786. You have spoken against it several times in the House of Commons?—I have, and hope to do so again whenever I have an opportunity.

3787. I am afraid you have not been very successful in persuading the House of Commons to adopt your view?—I am not sure of that; I believe that not only the conscience of the nation but the conscience of the House of Commons (which is a very difficult thing to describe) have both been aroused to the injustice which has been done to the poorer classes, if not without their knowledge, at any rate, without their realising it, during the past 20 years.

3788. But they have not as yet given effect to their indignation on the subject?—No, I do not know that they have.

3789. What I want to lead up to is this: Do you really think that as time goes on and supposing that the Charity Commission were under the direct control of a Minister, your policy would be carried out by a Minister; do not you think that the chances are that a Minister in such a position would take a stronger line against your views than the Charity Commissioners have in the past?—If you admit a Minister to be the creation of Parliament, and Parliament the creation of the public, I will answer the question in this way: that the feeling against diverting these doles is growing widely. I think the Commissioners rightly stated the case; Sir Henry Longley and I believe others, when they said that any attempt to interfere with those doles was bitterly opposed in the localities. And because a few select persons might think that doles might be better employed it does not follow that the owners of those doles are of that opinion, but the contrary.

3790. But, to be quite frank, it is not "a few select persons" who think so; it is the great bulk of the House of Commons, is it not?—I do not admit it at all.

3791. In every case in which the question has come up for discussion in the House, has it not been the fact that the schemes of the Charity Commissioners have always been supported?—There are few schemes of the Charity Commissioners that come before the House, very few; and when they come before the House they come suddenly; they come without the members of the House having, as a rule, any opportunity to know what was in the scheme, or any opportunity for any one to know what was the original trust on which the scheme was founded, and whether or no that scheme diverted the trust. All these particulars and details are known to very few.

3792. They are very difficult to arrive at, are they not?—I think not.

3793. Do you mean to say that you think all trusts are very simple and easy——

3793*. Let me take that paper which has been handed in by Mr. Richmond to this Committee, Paper No. 9. Take in 1892: "Nantwich, Chester"; a bequest for bread for the poor, 100*l.* given for that purpose, but applied by a scheme of the Commissioners to the "general purposes of Nantwich and Acton Grammar School." It requires not much exercise of judgment to feel that the poor there have been

Mr. *Lowther*—continued.

been, at any rate, deprived of 100*l.*; practically deprived of 100*l.* which was left to be spent in bread for the poor; and so I might go through the whole list, but I will not detain the Committee.

3794. But we have not got all the circumstances of that case; are you aware of them?—No; but the circumstances given us are quite sufficient as a matter of equity to decide that money left for bread for the poor should not be taken for the purposes of higher education in the Nantwich Grammar School.

3795. How do you know that it is higher education?—All the schemes of the Charity Commissioners, or most of them, are so. In this case it is for the "general purposes of the Nantwich and Acton Grammar School."

3796. How do you know that this is not an exhibition for the poor from the public elementary schools?—Probably there are exhibitions, but I will never admit that exhibitions or scholarships can in any degree benefit the poorest classes who need bread.

3797. You think bread is better than education?—No, I do not say that.

3798. You cannot eat your cake or your loaf and have it?—No, but you can either do one or the other. But in this case the poor do neither.

3799. How do you know that they have neither. You take a case like this, but you are not aware of the circumstances of it, are you?—I am aware that 100*l.* was bequeathed to the poor for bread, which sum has been given to the "general purposes of the Nantwich and Acton Grammar School," and I am further aware that the class of people to whom it is necessary to leave money for bread are not the class of people that have any part or lot in exhibitions or scholarships to a grammar school, supposing that such exhibitions exist, which I do not know to be the case.

3800. Do you maintain that no poor child ever has any exhibition at a grammar school?—I should not like to maintain that, but as a former governor of the Birmingham Free Grammar School, where these scholarships and exhibitions are very liberal, I am prepared to contend that even there the number of children who come from elementary schools is very small compared with the number of elementary scholars and with the enormous value of the foundation, and that the children who come from the very poorest class to whom such a bequest as that would apply have little or no lot in that great foundation.

3801. I will pass from that, but I would like to put this point which I want to get clear if I can. With the tendency of modern times and with the discussions in your mind which took place on the Local Government Bill, do not you think it probable that a Minister would be more likely to continue the policy, however mistaken you may consider it, of the Charity Commissioners than to reverse it, supposing he had the power?—I should not like to answer a hypothetical question in that way. My answer is a governing one, that the people of the country would have to decide what the Minister should do.

3802. You said that when these endowed schools schemes came before the House they were not looked upon as party schemes; is it not the fact that in every division which has taken place the Government tellers have always been named to tell for the scheme?—I am not aware; I cannot answer as to the fact, but I contend that it is not a matter of party politics in the sense that a Government measure is one which is brought in by, say, the President of the Local Government Board or any other responsible Minister of the Crown, not in the same sense as that.

3803. What you mean is that the division does not take place on party lines?—Yes.

3804. But is it not always so that the Minister defends the scheme, and the Government tellers are appointed to tell for it?—He might defend the scheme as far as he knows it, but he is not in the same position as a responsible Minister of the Crown for other measures as, for instance, the President of the Board of Agriculture bringing in a Bill, or as the Chancellor of the Exchequer bringing in a Bill.

3805. That is the difference between a Bill and a scheme; they are entirely different things, are they not; one is limited to a locality, the other spreads over the whole country?—In support of my view I quoted the case of the Dauntsey scheme, where the Government of the day, and especially Mr. W. H. Smith, the Leader of the House, allowed the scheme to be defeated.

Chairman.

3806. Was that in the House of Commons?—Might I explain? Perhaps it is as well to put on record what happened. The scheme was brought in, I put a notice of an Address to Her Majesty to reject it. The House of Commons was very busy then, and Mr. W. H. Smith asked me if I would put the motion off as they were so busy, and I agreed. The matter went on up to within four days of the expiration of the two months, and I saw Mr. Smith and advised him of that, and he said, "I will arrange that you shall have a time, but you see how busy we are," and at the same time (I put these words on record so that people in Wiltshire and the people of West Lavington might feel some of the gratitude which I felt at the time to Mr. W. H. Smith; his remark to me deserves to become historical) he said: "This scheme, Mr. Collings, is not right; it is not just to the poor." I am glad to have the opportunity of stating that. Almost at the last day he asked me if it would answer the purpose if he procured its rejection in the House of Lords; and I said, "Most certainly, Mr. Smith," and thanked him very much for it, and that is the history as I know personally of that transaction.

3807. I was going to put this question to you: How did it come before the House of Lords, and in what way was it treated by the Government in the House of Lords?—Some one moved the Address, but it was by the will and with the consent of the Government of the day.

3808–9. They accepted the Address?—They accepted the Address, and the scheme was rejected.

3810. There was no division in the House of Lords?—I cannot remember. That Address was carried and the scheme rejected; but whether there was a division on it I do not remember.

Chairman—continued.

3811. At all events you desire to put to us clearly that in the case of the Dauntsey scheme for West Lavington, with the consent of the first Lord of the Treasury of the day, the Government agreed to an Address hostile to it in the House of Lords?—Yes.

Mr. *Lowther.*

3812. In other words, the Government changed their minds?—I do not admit that.

3813. They must have changed their minds if they first of all approved it and then disapproved it. I will put it in this way: Who approved the scheme?—The scheme was approved by the ordinary procedure, by the Charity Commissioners, passed on by them to the Department, approved by them, and under petition laid before Parliament.

3814. Who was the vice-president at that time?—I really forget who was the vice-president at that time.

3815. Was it Sir William Hart Dyke?—It is very likely; I think it must have been.

3816. He then approved the scheme. And perhaps you know this: was there a Cabinet upon it?—I know nothing further than what I have stated.

3817. Then should you be surprised to hear that the Cabinet considered the matter and that the Cabinet overruled the vice-president?—I am not in the secrets of the Cabinet, and I cannot say. All I know is in answer to the question as to whether those schemes are treated in a strict party manner as Bills, here is a case in point in which the Government of the day was opposed to the scheme.

3818. After having approved it; after the vice-president had approved it?—I take it for granted that the vice-president had, but I draw a great distinction between an approval of the vice-president in the manner he approves of these schemes as we have heard and the approval of a measure by the Government.

Chairman.

3819. Is that the only illustration you can give?—That is the only one I know of.

Mr. *Lowther.*

3820. It is not the first time in your experience, is it, that a Government has thrown over a subordinate official?—"Thrown over!" Might I ask in what manner? It is rather a wide question.

3821. Reversed the decision of a subordinate?—There is a list put in by Mr. Fearon, I think, in which you will find that a considerable number of the Addresses against schemes have been carried, all of which schemes, I take it, have been approved by the Vice-President of the Council.

3822. That is Parliament defeating the Minister; but I am putting it to you, with your great experience of affairs, you must often have seen occasions upon which the head of the Ministry has thrown over a subordinate; we often see it in debates in Parliament?—I scarcely see the bent or meaning of the honourable Member's question.

3823. I do not want to go over the same ground over and over again, but what I put to you is this: Did not the vice-president approve the scheme which the Cabinet, or at all events the Government of the day, subsequently were prepared to reject?—Yes, certainly; I have stated that.

3824. Now, with regard to the initiative, your suggestion I understand to be with regard to all these schemes that the initiative should be in the hands of the local authorities?—Yes.

3825. And that they should not act without a local inquiry and meetings held?—Yes.

3826. Do not you think that the person holding a local inquiry has greater authority and is able to settle differences better when he comes from an office in London at a distance than he has if he is the nominee or the servant of a local county authority?—Certainly not; he is in a less advantageous position in my opinion; he knows so little about the locality or the people, he does not know the questions to ask, he cannot estimate the value of the evidence put before him, he does not know the character and *personnel* of the witnesses, all of which are known in the locality and which an inquiry instituted by local persons can estimate.

3827. But do not you think it is a great advantage that he should bring an entirely unprejudiced and fresh mind to the consideration of the questions likely to come before him?—Certainly an unbiassed and fresh mind, but with the disqualifications which I have named, which disqualifications do not exist with regard to the local people.

3828. Do you not value the local inquiries that are now held by the Charity Commissioners?—Not very much.

3829. Who do you suggest would be the proper official of the County Council to hold these local inquiries?—That is a detail. I should think, if it were a city council, the inquiry would be instituted by the mayor probably and presided over by the aldermen, or whoever might be appointed, but that is a detail of machinery.

3830. Surely it is rather an important detail, is it not, because on the man who holds the inquiry depends the report, and on the report depends the scheme?—All of which is public.

3831. But are not the inquiries now made by the Charity Commission by their Assistant Commissioner public?—Yes; but the report is not public, which makes all the difference. The Charity Commissioners, no doubt for good reasons, absolutely refuse, and probably very properly refuse as a central body, to tell the locality what has been the report of the Commissioner they have sent down.

3832. With regard to the question of diversion of charities, do you not think that the diversion is much more likely to occur where the scheme is prepared by a county authority than where it is prepared by a central authority?—No.

3833. Do not you think that strong pressure would be brought to bear by localities bordering upon the rich locality to get a share in the funds which properly belonged to the rich locality?—No; and if that danger existed the corresponding advantages of protecting the property of the poor is so great that I would risk the danger, supposing it existed, but I do not think it would exist.

Mr. *Lowther*—continued.

3834. A few words with regard to the Allotments Extension Act. Do I understand you to maintain that it applies to lands out of which educational charities are derived, as well as lands out of which doles come?—That is my contention; but that is not the view of the Charity Commissioner.

3835. May I read you the words of the Act?—Yes. I am familiar with them; but still I should be glad to hear them again.

3836. Then I would ask you to which of these words you think that educational charities apply. Here are the words: "Such lands whereof the rents or produce are distributed in gifts of money, doles, fuel, clothing, bread, or other articles of sustenance or necessity"?—Yes, and will the honourable Member read Section 14 of the Act.

3837. "Where a scheme is made by the Charity Commissioners after the passing of this Act in relation to any charity, and part of the endowment of such charity consists of land other than buildings and the appurtenances of buildings, the Charity Commissioners shall insert in such scheme a provision authorising the trustees of the charity to set apart portions of the said lands for allotments, and the same may be set apart and let as allotments in like manner as is directed by this Act": Do you maintain that the words there "any charity" refer to any charity whatever?—They mean what they say. I might add to that answer that if it only referred to the doles dealt with under Section 4 there is no earthly reason for having the section at all, because as far as doles are concerned and all charities under the head of doles in the 4th Section, the Act itself not only says "may," but compels the trustees to put those lands forth as allotments; but this section (14) is not of a compulsory character. It is compulsory as far as the Charity Commissioners are concerned; it says that they shall put into any charity an authorisation, that is power, to enable the trustees to put aside lands for allotments. They have no power to tell the trustees that they "must"; therefore the section as it seems to me can possibly only refer to future schemes dealing with land that does not already come under Section 4. I can see neither necessity for nor sense in the clause, if it is to be confined to doles under Section 4 which are already provided for by the Act itself.

3838. Do you also contend that the trustees, I understood you so to contend, ought not to sell any land which is subject to this Act, the Allotments Extension Act, 1882?—No, they should not sell any land except under very exceptional circumstances. For instance, suppose a charity had land and it were wanted for a railway station or something the profit of which would be very evident, in any such exceptional circumstances as that they should be allowed to sell; but as ordinary agricultural land to sell it is, I think, a course that should not be permitted.

3839. Are you aware that that point has been before the courts of law?—I am aware of it, and I am quite aware that the Charity Commissioners rather forced that question, I think, against the will of the trustees even, but certainly, if I remember right,

Mr. *Lowther*—continued.

against the will of the purchaser, who wanted to get out of the purchase.

3840. "Forced the question before the Court," do you mean?—No, after it was before the Court, it rather forced it through, would not allow it to be withdrawn.

3841. I do not follow that. They did not, of course, force the Court?—No, but both the vendor and the purchaser were willing to withdraw the purchase, and I think, if I remember rightly, the would-be purchaser offered to pay the costs if he could withdraw from the Court.

3842. That did not affect the decision of the Court?—No.

3843. And the Court decided, did it not, that the Act did not affect the power of trustees to sell lands subject to its provisions?—That was the decision, so far as I remember.

3844. And that was the case of the parish of Sutton *v.* Church, reported in the Law Reports, 26th Chancery Division?—Yes, and I would ask the Committee if they would kindly read that case as stated in the evidence given in 1884 by the solicitor of the vendor, Mr. Jackson, if I remember rightly, and the perusal of that case will enable them to come to a decision as to those powers better than any evidence I could give.

3845. I suppose you admit that as long as that stands, the Charity Commission being in a sense a branch of the Court of Chancery, are compelled to accept that decision of the Court?—Yes, but at the same time the sale of the lands places the lands outside the use of the persons for whom the Act of Parliament intended it, and therefore if the Charity Commissioners would discourage the sale, in 19 cases out of 20 the trustees would not attempt it, in my opinion.

3846. You complain, then, of the decision of the Court in this respect?—I do not agree with the decision of the Court as a question of policy, but I believe that the trustees would not attempt to sell lands very often if discouraged by the Charity Commissioners on the ground that the men, the labourers, are deprived of their advantages under the Act of 1882 by such sale.

3847. Is it not the modern view that it is very desirable to put as much land into the market as possible?—I do not know what the "modern view" means. It is not the view of the labouring population with regard to the charity lands coming under the Act of 1882, but quite the opposite to that.

3848. It comes to this, does it not, really: in the questions with regard to the labourers to whom you have referred there is a balance between the benefit to the labourers and the benefit to the charity, which has to be considered in almost every case?—No, that is not the point involved.

3849. Will you admit this: that sometimes it is greatly for the benefit of the charity to sell an estate rather than to let in allotments?—I have already stated that there might be cases in which such might be the case; but what I say is that the Charity Commissioners should not allow the trustees to sell agricultural land without any such special advantage, because thereby they immediately put that land out of the possession

Mr. *Lowther*—continued.

possession of the men, and deprive the men of the whole benefits which Parliament intended for them.

3850. Then perhaps you would accept my statement if I put it this way: you are more interested on behalf of the labourers getting allotments than you are on behalf of the beneficiaries of the charity getting these benefits?—I do not say that, but at the same time I contend that it would be difficult to find a case during the whole operation of that Act in which the contention of the trustees can be verified that the charity would suffer by letting the land in allotments. I have by myself and by agents gone to great trouble and expense to look into cases in which such was alleged, and I found in every case the contrary to be the fact, that land let in allotments would bring in as much, and, if anything, more rent to the charity, and that the rent would be equally well paid.

3851. That was the view you came to?—A view founded on examination.

3852. But that was not the view which the trustees took?—No, and not the view which the Charity Commissioners took. Take another point, the imposition of a fore-hand rent, which the trustees in violation of the Act, in my opinion, imposed on the labourers in some cases, preventing the labourers having the land, they being extremely poor men. That rule and that imposition was sanctioned by the Charity Commissioners.

3853. How would a Minister with direct control of the Charity Commission cope with this question better than the Charity Commissioners?—I have not in my evidence recommended a Minister; I have recommended that it be a County Council.

3854. I will take that answer. Then so far as the administration of the Allotments Extension Act is concerned you do not see any advantage to be gained in putting the Charity Commission under the direct control of a Minister of Education?—On the contrary, I would leave it in the hands of a local authority, or an appeal to the County Court it was originally in the Bill, the local authority being better, I think.

3855. You were speaking a little time ago about the desirability of retaining the privileges of the poor with respect to any particular charity given to them. You are aware of course of the 11th section of the Endowed Schools Act of 1869, commonly called the "due regard" section?—Yes.

Mr. *Wickham.*

3856. I understood you to say that in small places less attention was paid to local wishes than in larger places?—That is my experience.

3857. That arises then from your own knowledge or your own experience?—I think I should put it this way that public opinion in small places has not the volume of power behind it that it has in a large city such as Birmingham or Manchester, and consequently does not receive the same consideration.

3858. The large places have more means of publicity and agitation?—They have greater power behind them.

Mr. *Wickham*—continued.

3859. What some of us in this room call momentum?—Yes.

3860. Would you refer to Mr. Kekewich's answer to No. 3656, in which he is asked, "I think I understand you to say that you, as a department, are not disposed to cram any scheme down the throats of a locality in opposition to such public opinion?" And the answer is "We endeavour to avoid doing so; and of course we know that if we did attempt to cram a scheme down the throats of a locality in opposition to public opinion a petition would immediately be presented to the Houses of Parliament, and in all probability in one or other House the scheme would be rejected. We are anxious to avoid that." Now do you think that that answer applies to a little place in the country?—If it means that local opinion is successful in all cases, however strongly urged, I do not admit that it is successful.

3861. Then in your opinion the existing law does not sufficiently provide for an adequate consideration of local wishes in small places?—And in large as well.

3862. But it provides less for the wishes of small places than the large, or at least the result is that it does?—The result is naturally that in large places where there are a good many public men they raise opposition, although they have no more legal power than the inhabitants of a small place. If I might illustrate what I mean I could refer the honourable Member to my evidence on the Sutton Coldfield Charities. I am not going into the scheme that was finished at that time, but I refer to a scheme of the Commissioners since that time which I am happy to say through the result of opposition has been finally withdrawn, a scheme which was to take 15,000*l.* more out of the charities of that place, they having under a previous scheme which I referred to in 1884 already taken 17,000*l.*

Chairman.

3863. It was stated by the Parliamentary Commissioner, Mr. Thomas Ellis, on the 9th of September last year in that discussion on the estimate that the vice-president had disallowed it?—It was withdrawn. In answer to the honourable Member's question, I was going to point out that if Sutton Coldfield had been simply a small parish, they would, in my opinion, have had no chance whatever of getting that scheme dropped; but it happens that it is practically a residential part of Birmingham, and therefore the clergymen, doctors, and lawyers and others who live there took it up for the Sutton Coldfield poor and created such a public opinion, such opposition, that the result was the withdrawal of the scheme.

Mr. *Wickham.*

3864. Then, particularly in the case of small places, are you for or against a strong central authority; do you think that a central authority acts beneficially or not towards small places?—I should like to define exactly the meaning of that question. My evidence has tended to show I think how adversely this central authority acts in its administration to both small and large places. I am for giving more powers to the local authority.

3865. The

Sir *Stafford Northcote.*

3865. The Chairman referred you at the beginning of your evidence to a division which took place in the House of Commons last September. From your long experience in the House, I may ask are you aware that divisions on Estimates are sometimes not absolutely affected by the merits of the Estimate, but by the question of which party may happen to be in power?—I am not sure that I follow the question.

3866. Is it your experience that votes on the Estimates may occasionally be reasonably suspected at all events of being given not wholly in consequence of the merits of the Estimate, but to some extent because of the party that may happen to be in power?—I think that the Estimates are almost invariably carried by a party vote.

3867. Do you happen to remember or would you be surprised to hear that in 1886 certain ex-Ministers voted in the autumn against the very Estimates framed by their own Government in the spring of that year?—I think it very likely. We live under party government.

3868. Therefore, in your opinion the Charity Commission need not consider that the vote of last September was directed against them as a body?—Of course personally not directed against them; but I believe it is directed against what I may term the combination of the Acts under which they work, and more especially the administration of those Acts.

3869. Do you consider that it is a definite pronouncement by those ex-officials to whom the Chairman has referred in favour of the sweeping changes which have been suggested to the Committee?—I think there is a very large feeling growing up in the House of Commons, as well as in the country, to alter the procedure of the Charity Commissioners, and that a vote to that effect would gain large support from all sides of the House, independent of party.

Chairman.

3870. I should like to put this to you to clear it up: Supposing that the Government Whips, Mr. Marjoribanks and Mr. Thomas Ellis, as was the case on that occasion, had not told, in your opinion, would a large number of those who voted in the majority and carried the Estimate have supported you in opposition to it?—You mean in the case where I moved the reduction of the Estimates? I think the carrying of the Estimates would in that case, as in all others, be the paramount object, and that the Government even, although they might agree with the object of the reduction, yet would be compelled to carry their Estimates for reasons which we all know.

Sir *Stafford Northcote.*

3871. To go to another point in the case of those charities where you have said that for one reason or another the charities might be in possession of an excess of money, I do not know whether you gave us your view as to how that excess of money should be applied?—No, I am not prepared without knowing all the circumstances of the locality and the nature of the amount, and so forth, to lay down any question of detail; I would rather quote the Report of the Schools Enquiry Commission who speak so strongly about leaving such question in the hands of local authorities, because no one can know so well as they the particular requirements; and if education, what sort of education, whether agricultural or mining, or so forth; nobody can know that so well as the local authorities.

Sir *Stafford Northcote*—continued.

3872. You would not be prepared to contend that where there is an excess of dole money, in the event of a regulation of the charity, the system of dole money should be continued. Supposing that there is a charity, for instance, for the supplying of sixpences or of blankets, or of bread to the poor, and that that charity has become so rich as to be able to do more than supply those sixpences and blankets, you would not contend that this extra revenue should continue to be spent on blankets or sixpences?—No, I am not contending for the form; my contention is that it shall be kept for the same classes.

3873. Then with regard to the question of the initiation of schemes by local authorities, I understand your view to be that when those schemes have been prepared they should be submitted to the Charity Commissioners for approval or consideration?—Yes.

3874. In the event of a disagreement between the local authority and the Charity Commission what would you propose?—I admit there is a difficulty there, that it might lead to a deadlock, as we have heard deadlocks take place between the Charity Commissioners and the Department. Sometimes at any rate there might be differences of opinion between the Charity Commissioners and the Education Department, resulting in a scheme being hung up; and such differences no doubt would arise between the local authorities and the Charity Commissioners, but I think they would settle themselves; at any rate, I have no remedy to propose for them.

3875. Then with regard to your recommendation that a standing committee of Members of Parliament should be created to examine these schemes, is it your opinion that that standing committee would not be likely to vary with political changes?—I do not think so. It would be appointed every year; and I think, in the case of the Commons Committee, it fairly represents all sides of the House. I was looking at the composition of that Committee to-day, and it seems to me to be very general in its character.

3876. Then with regard to your evidence about the Allotments Act of 1882, would you not be of opinion that trustees would be better judges of the interests or might be better judges probably of the interests of the corpus of a charity than the agricultural labourer who would naturally be looking after his own interest; and it is your opinion that the difficulties which you say the trustees raise as to the letting of these allotments is not caused by any hostility on their part to the labourer, but by their regard for the interests of the corpus of the charity?—We have abundant evidence, both what I have given already and what I have here, and am ready to give if the Committee wishes it, that it cannot be concluded in the case of hostile trustees

Sir *Stafford Northcote*—continued.

trustees that their hostility depends on their regard for the corpus of the charity; because we have cases in which they have promised over and over again and broken those promises. We have cases when, at the last moment, they have let the land by lease in order to get out of the responsibility; and we have cases in which it is proved that the income of the corpus will be equally good if not better under the allotments than under letting in bulk.

3877. May I ask in connection with that, with regard to the case of Mendlesham which you quoted, where the trustees granted a lease, and thereby prevented the labourers from getting their allotment, was that lease granted by the trustees, subsequent to the application by the labourers for an increased amount of allotment land?—Oh, certainly.

3878. You spoke of the higher rents given by the labourers for allotments, but, of course, you are aware, as a matter of fact, that farmers and other people holding under the Charity Commission have to pay certain rates and other charges?—Yes. I wished to draw no distinction further than to show that the charity was not likely to suffer from the rents paid by labourers in allotments in the place of rents paid by the farmer.

Sir *Stafford Northcote*—continued.

3879. But you would not contend that the labourer was prepared to pay more than the farmer, taking into account the fact that the farmer is burdened with the rates?—Yes; in the case of these labourers they were prepared to pay 30*s.* an acre for what the farmer was paying 1*l.* for. The farmer paid the outs and expenses, but even then (I went into the thing at the time) I reckoned that there would be a few shillings an acre more, even taking that into consideration.

Chairman.

3880. Of course it is usual, for reasons which we are familar with, to pay a little higher for a small amount of land?—Yes, and the men are willing to do it.

Wednesday, 27th June 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.
Mr. Griffith Boscawen.
Mr. Jesse Collings.
Mr. Donald Crawford.
Mr. John Edward Ellis.
Mr. Howell.
Mr. H. L. W. Lawson.
Mr. James William Lowther.
Mr. Oldroyd.
Sir Stafford Northcote.
Mr. George Russell.
Sir Andrew Scoble.
Mr. Strachey.
Mr. Wickham.

MR. JOHN EDWARD ELLIS, IN THE CHAIR.

Sir HENRY LONGLEY, K.C.B., recalled; and further Examined.

Chairman.

3881. I THINK there are one or two points in the evidence of the last witness, Mr. Collings, to which you wish very briefly to refer?—Yes. Perhaps it would be convenient that I should mention them now. I have very little to say on the point, I think, because as regards what Mr. Collings said about the working of the Endowed Schools Acts I think it will be sufficient to refer the Committee to certain passages in the Report of the Committee of 1886-87, namely, Part V., Part VI., sub-section 9, Part X., sub-section 21, and to say on behalf of the Commissioners that we should desire to rest our case mainly upon that. But I think, perhaps, I am entitled before this Committee to quote a high authority on the subject, because I find that on the 20th June, 1887, in the course of a debate on Supply, an honourable Member said that he personally gave close attention to all that took place before the Committee of 1886-87; that he listened to the evidence given by the honourable Member (that is to say the Right honourable Member whose evidence is now in question) and to the charges which he formulated.

3882. Do not take us into "Hansard," if you please, more than you can help?—I was anxious to quote that. I thought I could not have a higher authority than your own, Sir, from whose speech I am quoting. The end of my quotation is: "I am bound to say that to my mind the honourable Member did not make out his charges." I should be quite content to leave it there if I might. That is all I have to say as to the Endowed Schools Acts. Then another section of the Right honourable Member's evidence is concerned with the working of the Allotments Act; and there again I would ask the Committee to refer (I need not read the passage) to the Second Report of the Committee of 1884, which I think has scarcely been mentioned before the Committee, and it is a very little known Report. The Committee of 1884 made a Second Report, dated

Chairman—continued.

the 4th of December 1884, on the Allotments Act, and I should wish to refer to page 8 of that Report, the passage beginning, "On a review of the whole matter"; and there again to base a vindication, if any vindication be called for, of the working of the Act by the Charity Commission on that passage. And upon the Allotments Act I might just say this, perhaps, that the question of the administration of the Allotments Act, 1882, is now, I will not say not a practical one, but one of very much less importance than it was. I can illustrate that best by saying, as I think was said in the House of Lords not long ago on some figures which I supplied, that whereas some years ago we had one case a week, under the Act, we have now one a quarter. That is partly due to the large supply of allotments, and partly, no doubt, to the fact that the Allotments Act of 1887 has provided the means of transferring the management of the allotments in question from the trustees of charities to a representative local authority. The only other observation I wish to make on that is, just to refer to one case, the case of Mendlesham mentioned by the Right honourable Member; merely to say this, that our action in that case was based upon a section in the Act which we considered the trustees had *bonâ fide* adopted and worked, and their action as to which it was not for us to find fault with, or rather we had no legal power to question their action. The section is the 4th section, sub-section (b). I think that completes what I have to say on that evidence.

3883. Now, passing if you please to certain explanations you wish to offer on evidence that has been given, by way of clearing up points, perhaps you will kindly make it as brief as you feel you can consistently with your duty to the Commission, and refer, so far as you can, to specific points?—The first point I should like to draw the attention of the Committee to (and I put it first because, being a personal matter, I should

Chairman—continued.

like to dismiss it as soon as the Committee will allow me to do so) is as to the position of the Chief Commissioner. Some questions have been asked from other representatives of the Commission on that subject, and I need not say that I have no fault whatever to find with the answers that were given, but those answers, of course, are only fragmentary on the subject; and I think, in a very few words, I can just state what is practically the position of the Chief Commissioner, though it is not to be found in any Act of Parliament or in any written regulation. It may be shortly described as representing the Board; some individual must represent the Board on many occasions, and for many reasons, and it is perhaps not unnatural that the Chief Commissioner should do so; for instance, in dealings with the Government of the day, in attendance on Parliamentary business, which of late has been very frequent and onerous, and also in dealing with what I may call external work, that is the details of proposed legislation; that is business which is rather fitful in its occurrence, it at times involves a good deal of labour. As regards the Parliamentary business there is legislation, and there is also the looking after the estimates, which I consider is a main business of mine. And then there is the external legal work, dealing with cases in which we have to bring matters before the Court, both attending the hearings at the Court, and also attending consultations; I make it my business to see all the legal work that goes out of the office, not the legal work that we do in the office, but the legal work that goes out of the office. So much for work outside the office. Then within the office I consider it my business to keep special touch, as far as I can, with the general work of the office, and to form a connecting link between the two main branches of that work. I do that in two ways, by communication very frequently with my colleagues, and also by means of the secretary, who, as he has himself told you, acts as a sort of focus of a great deal of the work. My communications with my colleagues are very frequent, and very often of this nature: A colleague will come to me, for instance, to mention a case which he is proposing to bring before the Board in order that I may have a better knowledge of it, so that I am placed very often in a better position at the Board than the rest of my colleagues; though I have not any agenda, I have a greater knowledge of the matter, and I am in a position, perhaps, to help the Board more than I otherwise should be; and also a colleague will come in a case as to which he is doubtful whether it is a case that should be brought before the Board or not. I need scarcely say that we work upon the principle which has been impressed upon us by high authority, the principle of only bringing before the Board such cases as involve a principle, and a principle not covered by previous decisions. The sittings of the Board involve a very considerable expenditure of official time if you come to add the time of different members of the Board together; and for that and other reasons it is desirable that only selected business should come before the Board, and very often as the result of a conversation with me, and perhaps an expression of my opinion, a case is not brought before the Board at all, and public time is saved in that way, though of course it brings more work upon me, work which I am very glad to undertake. I should like to say one word as to the work under the Welsh Act. Mr. Thomas Ellis, in answer to Question 2917, said that no Commissioner, except the Commissioner bringing forward a case, knew much about the Welsh schemes before they were brought forward. I think, if I may be allowed to say so, that that is scarcely so as regards myself. I do often know, as I have just mentioned, the important work before it comes before the Board, but I have considered it my particular duty to keep in touch with the Welsh work. I had a very considerable share in the preparation of the amendments which made the Welsh Act what it now is. I was very closely concerned with the passing of the Act, and for that reason, and also on account of the importance of the work, I have considered it to be my duty to know a good deal more about the Welsh work before it comes to the Board than I do in the case of other work. And the only other observation I would make is this: that, as I told the Committee before, we work on the principle of mutual confidence, but that principle is applied as regards the Chief Commissioner in various degrees. As regards the main work, the legal work on one side and the educational work on the other, that is applied in the way of each Commissioner doing his own work subject to bringing it before the Board whenever he thinks fit; but as regards a very large part of the detailed work of the office, that work which chiefly comes under the cognisance of the secretary, I think my colleagues are good enough to trust me to a larger extent than in other matters, and so I have a more free hand, as is perhaps convenient in those matters of detail.

Chairman—continued.

3884. Now you wish to say something to us as regards your relation to local authorities, I think?—Yes. Perhaps I had better say that in regard to the three points, local authorities, representative trustees, and accounts of charities, I have on each of those a few words to say. I should like to point out that my observations now will refer exclusively to work under the Charitable Trusts Acts, and here perhaps it may be convenient that I should just give the Committee some idea, as far as I can, of the proportion borne by that work to the whole work of the office. The work under the Endowed Schools Acts, as regards the particular items of the work, is almost incommensurable with the permanent work under the Charitable Trusts Acts, because though the former work deals with only a comparatively few items, those items are exclusively schemes, and are, in a large measure, of very great importance. The permanent work under the Charitable Trusts Acts involves a multitude, thousands, of details, of very varying importance, and therefore I cannot usefully give comparative statistics as to that, but I will tell the Committee the proportion of the staff and cost which the charitable trusts permanent work bears to the whole. The staff is 87 per cent. and the cost is 76 per cent. of the whole. Then as regards local authorities, our dealings

Chairman—continued.

dealings with whom have been frequently mentioned, I should like first to say two things. Whether we wish it or not, and as one of the necessities of our position, we must deal in our Charitable Trusts work primarily with the trustees of endowments; they must hold the first place in our system of work. Of course, as trustees became more representative, and more in touch with local authorities, the gap there is at present between them and the local authorities would become narrower; but I would ask that it may be borne in mind, with regard to dealing with local authorities, that we cannot move without trustees, and we must consult them in the first instance. Then one other remark as to a comparison which has been made between our dealings with County Councils and Municipal Councils. Municipal Councils are very near the charities in their area. A municipality consists of a few parishes, and every member of the municipality knows something, very often a great deal, about the parishes. The County Council, on the other hand, is very remote indeed from, for instance, a small dole charity in a distant parish. Thirdly, I should like to say that I believe there has been absolutely no complaint whatever by any County Council of our failing to co-operate with them. On the contrary, we have long wished for the co-operation and assistance which may be derived from local authorities; and, without troubling the Committee at any length, I would refer, if I may, to an extract from our Thirty-eighth Report on that subject, in which we anticipate great advantages to our work from the constitution of local authorities; it will be found in the paper No. 3 which has been put in here, page 5, and so far from there being any unwillingness on our part to co-operate with local authorities, I say that we have continually and always wished to have their assistance, and any failure in this respect I think may be attributed to the want of local authorities until the present time; in fact, I would go so far as to claim, on behalf of the Commission, that we have paved the way for the work of local authorities by the gradual introduction of the principle of representation in the bodies of trustees.

3885. Now you are passing to another point, the point of representative trustees?—I was just on the point of passing to that. I have only one other thing to say on the subject of which I was speaking. I believe that we have materially assisted County Councils by indicating the way in which they can have touch with the charities and may best approach the question of dealing with charitable endowments.

3886. You need not dwell upon the principle of representative trustees, you have explained that very fully in your evidence in chief, and that is all accepted; will you come now to a table that you have been good enough to prepare and put in, that contains some concrete facts in regard to six selected counties?—I have one observation to make before I refer to that table, which is this: that in our view everything has pointed to that gradual introduction of the representative element which that return, I think, will show, and on which we have dwelt in

Chairman—continued.

passages which have been quoted, in our Fortieth Report; the circumstances which point to that, if I may mention them, are these: First, the very important matters mentioned by Mr. Fearon, in his answer to Question No. 2163, as to the attitude of the Court.

3887. We have had all the arguments in favour of the representative principle, and that is accepted by the Commissioners, we understand, and you have put in a table on the point?—I was going to show why the progress should be gradual.

3888. Why it has not been faster, you mean?—Why it has not been faster. That case quoted by Mr. Fearon is a very important factor in the matter. The Committee will not forget that our appointment of trustees, and our schemes, are subject to appeal to the Court of Chancery. Now, in that case which Mr. Fearon quoted, we had a very distinct intimation of the opinion of eminent counsel, no less eminent than Lord Russell (as he is now) and Lord Justice Davey, that the court was not likely to countenance our making alterations in the bodies of trustees, unless they had failed in their duty. And that consideration has been always present to us. Of course, it would have been most undesirable if we had made changes capriciously or with undue rapidity in bodies of trustees, and our action had failed to receive the support of the court. Then the language of the Report of 1884 certainly does not point to any but a gradual application of the principle. That Report most carefully left us free as to the proportion of representative trustees to be appointed, suggesting that there should be a substantial element. I need not dwell upon the difficulty of obtaining the necessary applications from trustees, because that has been already mentioned. And the last point on that head I have to mention is that, until local authorities were supplied, remotely by County Councils, and now in the present year by Parish Councils, we have had very great difficulty in finding, particularly in the case of small charities, materials for providing representative trustees.

3889. You have been willing, but unable?—Yes; there have been great difficulties on the question of expense. The point of expense has weighed very much with us. And now I come to the table, or rather to the summary of the table at the end.

3890. This paper is No. 10 of our Appendix, I think?—Yes, paper No. 10.

3891. Handed in by you on the 25th of May; it is a "Tabular statement of all schemes established under the provisions of the Charitable Trusts Act between the 1st day of January 1884, and the 31st day of December 1893, and providing for the permanent constitution of a body of trustees in the case of charities, not being for the exclusive benefit of any church, sect, or denomination, applicable for the benefit of places within the following counties, viz.:—Glamorgan, Norfolk, Nottingham, Somerset, Sussex, and York?"—That is so.

3892. Will you kindly give us the summary of the figures, and may I ask you whether that corresponds with, and is amalgamated to, the

Chairman—continued.

figures given us by Mr. Richmond in respect to a similar return under the Endowed Schools Acts; that is to say, it is the total of the columns?—The paper itself is on the same lines as that paper put in by Mr. Richmond, with the addition of the income of the charities, which I thought important. The summary I do not think exactly corresponds; the summary is, I think, more in detail.

3893. Will you refer to the printed summary on page 24 of the return?—Yes. I will get the other one out first, that we may have them both together. The summary on page 24 indicates in thick type two sets of percentages. I will take, without going into individual counties, the two bottom figures in thick type. The first figure, 55, shows the percentage of schemes, during the 10 years, in which an expressly representative element has been introduced, 55 per cent. Then at the right of that figure I have gone on to deal with a class of trustees which I do not think has been mentioned to the Committee before; I have called them *quasi* representative trustees, because in making these Charitable Trusts schemes (which are very different as the Committee know from the Endowed Schools schemes) we have had to deal with very small charities indeed, and have had to consider the question of expense, and we have also tried to avail ourselves, as far as we could, of any existing elective body or officers by way of securing, indirectly it might be, some possible representation; and, as the note at the bottom says, for that purpose we have, whether rightly or wrongly, but with the full intention of securing the representative character, put in among Ex-officio Trustees, people's churchwardens, overseers, guardians of the poor, chairmen of local boards, or of school boards, and others, who are not here designated, as *quasi* representative trustees, we get 85 as the percentage of the total schemes with either representative or *quasi* representative trustees; and looking at the two columns in thick type, I think it will be seen that there has been, particularly in the first column, a gradual introduction of the representative principle. I think the only other thing I have to say on that is, that it has been our object rather to introduce the representative principle, widely, in as many cases as possible, and that we have made that our first object until quite recent years, perhaps more distinctly than to give a particular number of representative trustees in each case; and there I think we have paved the way for the work to be done under the Local Government Act.

3894. You have desired then, I gather, to spread the representative principle over a wide area rather than to make it very particularly strong in individual cases?—I think that was our first point.

3895. You increase the figures from 55 to 85, as I understand, by rather changing the meaning of the word "representative"?—Yes, I stated that to be the number, including the *quasi* representative trustees; but I wish the Committee to understand that that class of Ex-officio Trustees whom I call *quasi* representatives, were appointed expressly with the object of introducing the representative element.

Chairman—continued.

3896. Now will you proceed to the other figures, which really give us a more simple estimate of the matter—namely, the totals of the columns. What is the number of the schemes, that is column 2?—The total number of schemes is 176; that is shown in column (a) in the printed return on page 24, the next one after the thick line.

3897. The total number of trustees?—1,344.

3898. And that is column 5 in the return itself?—In the return itself, that is so.

3899. We had better take the columns in the return?—The total of column 5 is 1,344.

3900. How many ex-officio trustees have you?—352.

3901. That is column 6?—Yes.

3902. Co-optative column 7?—549.

3903. Nominated?—I have added the four nominated in the 549. I might take credit for them as representative.

3904. Now the number of representative trustees in the ordinary sense of the term, column 8?—443.

3905. Those are the figures making up the total of 1,344 representatives?—Yes; and of that number 32·9 per cent. are expressly representative, and 44·5 per cent. are either representative or *quasi* representative.

3906. Now I think you wish to say something to us on this matter of the accounts of charities?—I have not much to say on that point, because it has been very fully gone into since I gave evidence, and I am afraid that I am not able to make what I have to say as clear as I should wish to the Committee, because a paper which was promised for this morning has not been delivered, a paper containing the return asked for by the honourable Member for Bethnal Green, or suggested in conference between him and you, Sir, as to the accounts outstanding for three counties on the same basis as the return that the honourable member procured for London. That is in type, and may be here, I believe, any minute; it is No. 11. But the main thing I have to say upon this is merely to ask that in considering, if the Committee have to consider, our action as to accounts, they would take into consideration the paper No. 6 which has been appended to the Proceedings of this Committee. It consists of extracts from our annual reports, on which I rely as showing that we have given Parliament, and through Parliament the public, full notice of the limitations under which we work in dealing with the transmission to us, and examination by us, of the accounts of charities. Then as regards the promised paper which is not here, I can just say this: that the paper will be found to show, in a summary at the end, something like the summary I have just referred the Committee to in the other paper (I am speaking from memory, for I have not the paper here), that while something like between 11 and 12 per cent. of the charities which produce income are in default, the income of the defaulting charities is only 4 per cent. of the total income of the income-producing charities. That confirms the view which we have always held that it is the small charities that fail to render accounts.

Chairman—continued.

3907. I suppose you hope to receive some assistance under the Local Government Act, 1894?—Yes; I consider that the whole aspect of affairs will be changed when that Act comes into existence, and that it is hardly worth considering the matter now; we have hardly thought it worth while to consider the matter further till we see how it works. I may observe that, as regards the small charities, they are often managed, and the accounts are rendered, by people very much occupied, very illiterate, and very ignorant of the law. If the Committee could only see the returns we get sometimes, they would see with what difficulty they are evidently made out, and often, too, that that point is met by this return being made for five years, for these trustees have a practice of rendering accounts only once in two or three years. But again I would suggest that the importance of the default, if measured by the income, is less than it appears as measured by number.

3908. In his answer to Question No. 2697 Mr. Fearon brought into a focus the principal suggestions that he had made in the course of his evidence; do you wish to add anything to that?—Yes, I should be glad of the opportunity just of stating some recommendations I should like to make, without comment except in one case. The first, and here I think I shall have the cordial support of everybody who has had to do with the working of the Welsh Intermediate Education Act, is this: I would suggest that the Assistant Commissioners of the Commission should have a right to attend, without of course a right to vote, meetings of all trustees of charities. I think Mr. Acland (and I am not sure whether Mr. Thomas Ellis) in his evidence spoke of the value of the services of our Assistant Commissioners in working the Welsh Act. Then I should wish to recommend that trustees of all dole charities should have power, if they think fit, to apply them to some more useful eleemosynary purpose.

3909. This power which you now are alluding to is a power not for the Commissioners but to trustees?—A power to trustees only; a power to apply them to some more useful eleemosynary purposes; for instance, pensions or nurses for the sick. And I should like in that connection to refer to the 24th paragraph of our Fortieth Report, in which we say that we have for many years desired to see such a principle adopted, failing to understand why useless charities, or charities the present application of which is not considered beneficial, should be capable of diversion to educational purposes only. Next I should like, in pursuance of a recommendation made in our Thirty-ninth Report, paragraph 36, to suggest that where the income of a charity is applicable to the payment of fees at a public elementary school, in the future, in view of the general establishment of free education, trustees should have power, without the necessity of procuring the establishment of a scheme in each case, to apply the money to other specified educational purposes. And, lastly, referring to the 17th paragraph of our Thirty-seventh Report (I think I mentioned this in my evidence before), that we and the court should have power to vary

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by scheme trusts of charities regulated by private Acts. Those charities are in the unfortunate position, at present, of being compelled, in order to procure the most trifling modification of their present constitution, to incur the expense of going to Parliament.

3910. Then you have added to Mr. Fearon's suggestions four suggestions, as I understand, two of them being additional powers to the Charity Commission, and two of them additional powers to trustees?—That is so; and I may say that I fully agree with the recommendations Mr. Fearon made.

3911. Now, passing, if you please, to what is perhaps the more important part of your evidence to-day, namely, the general question raised by the reference to the Committee, what do you wish to say to us upon that?—In the first place, referring to what may be called the educational work of the Commission in respect of educational endowments, whether under the Charitable Trusts Acts or under the Endowed Schools Acts, I am anxious to point out that that work is really permanent in itself. That, I think, some evidence given by my colleagues, and particularly by Mr. Richmond, emphasises. The work in itself is permanent. As regards a very important section of that work, namely, the work done under the Endowed Schools Acts, it is, as regards the Charity Commission, as regards its execution by the Charity Commission, temporary in its relation to that body; and I venture to think that a good deal of the complication which has arisen between ourselves and the Treasury, and some of the difficulty which the Committee, I am afraid, have had in appreciating our position in the matter, which is a complicated one, has arisen from the fact that work permanent in itself is in one of its aspects temporary.

3912. You would say, then, I suppose, that it is a piece of work which is provisionally entrusted to the Charity Commission?—That is the view I should like to lay before the Committee. I have always considered, since I first read the Schools Inquiry Report, that the Endowed Schools Act of 1869 was passed, and the work under it organised, merely as a provisional measure, awaiting the time when Parliament and the country should be ripe for the work of organisation of secondary education. That alone furnishes a reason for the temporary character which is given to the work. No doubt there was an idea (though I confess I do not find it very distinctly, if at all, laid down in the Schools Inquiry Report), in the early days of the working of the Endowed Schools Acts, that there was a job of work to be done, and then everything would come to an end; but looking back to the fundamental principles laid down by the Schools Inquiry Commission, I cannot but think that that Report contemplated an eventual organisation of secondary education in which educational endowments must necessarily find a very prominent place, and that, sooner or later, a permanent organisation would be demanded for that work. Our function, I consider, has been to carry on this work, a large section of the work of the organisation of secondary education,

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to the best of our ability, so as to enable it to be placed to the best advantage in its proper place in the larger framework of the organisation of secondary education; and if the Committee would allow me, I should like, as Lord Welby has stated at some length, our relations with the Treasury on that matter——

3913. Rather the relations of the Treasury to you?—Yes, the relations of the Treasury to us. On that matter I should like, if I may, to state our view of those relations.

3914. Certainly?—I think, perhaps, I had better begin by reading a passage from a letter of ours to the Treasury, which, to a certain extent, emphasises this view.

3915. Are these public letters?—I do not propose to put them in, as I am not in a position to put them in; but I may say that we have held this view with the Treasury, that this is a view which we have impressed on the Treasury, that the relations of the Charity Commission with educational administration are the result of the attempt made by Parliament (for the first time), by means of the Endowed Schools Act of 1869, to effect an organisation of State control over secondary education throughout the country, and that it is the conviction of the Commissioners that in these circumstances, and in view of the present state of general public opinion as to that organisation, no such permanent settlement of the educational functions of the Commissioners as seems to be desired by the Treasury can be effected, except as part of some further and general measure dealing with the question of the relation of the State with secondary education at large. Then I should like to refer to what Mr. Acland, in answer to Question 3312, says: "I do not think the Treasury has always seen so clearly the great importance of the educational work, pure and simple, which is being done under the Endowed Schools Acts." Well, really, our difference with the Treasury has been this: that we considered that we were bound to carry on this educational work to the best of our ability. It seemed to us that proposals were made by the Treasury for doing that which would prevent us from carrying out that function, and from, as I said before, handing over the work in the highest state of efficiency to the coming Minister of Education, if I may say so. It was not a question as regards a matter of degree. I think I may say that we were continually willing to meet the Treasury, but we were steadfast upon this, that we would not slacken, or abandon, the educational work, considering it to be for the interests of the coming system of secondary education that that should be completely carried on. The particular point, as the Committee know, that was at issue between ourselves and the Treasury was the number of Commissioners. Now, so far from wishing to increase the number of Commissioners, I may say that ever since the introduction of the Bill which eventually became the City of London Parochial Charities Act of 1883, my attention, at any rate, and I think the attention of the Board, has been called to the consideration of the question whether an increase of work of the Charity

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Commission should be met, as it formerly had been, by an increase in the number of Commissioners, or by an increase of the subordinate staff; and our view, at any rate my own view and the view of my predecessor, was so strong against that increase that we did what we could to secure the working of the City of London Parochial Charities Act without the appointment of additional Commissioners. Additional Commissioners were eventually appointed, Sir Francis Sandford and Mr. Anstie, but on Sir Francis Sandford vacating his office a year or two after he took it, in consequence of representations which we made, that vacancy was not filled up. We took the earliest opportunity of bringing the work of that Act to an end, and thereby diminished the number of the Commissioners from the six mentioned in Mr. Smith's Minute, which Lord Welby quoted, to five; and, further, in the course of the negotiations with the Treasury, to which Lord Welby has referred, we have held this view, that an increase of the number of the Commissioners is not the mode in which the gradual growth of the work of this Office should be met. That is the view which we took, and expressed to the Treasury in April 1891, early in the course of these negotiations. And, further, at a later stage in the negotiations, we told the Treasury that, so far from wishing to maintain the Commissioners at their present number, without concession of any sort, we should be willing, in certain circumstances, to acquiesce in the policy of not filling up the next vacancy among the two Endowed Schools Commissioners. I mention these circumstances in order to show that we have not been unwilling to remove from ourselves the reproach of being what is called "top-heavy."

3916. In fact, you concurred in the view, as you put it now before us, that it was so?—We thought that it might be relieved in that way, at any rate that it certainly was not desirable to increase the number of Commissioners.

3917. Then, referring to Question 3348, there was a word interpolated or suggested by myself there: "Might we add to 'top-heavy' the words 'somewhat antiquated'?" to which Lord Welby replied: "According to the Treasury view, somewhat antiquated;" have you anything to say to us upon that?—I looked upon that as meaning that we were inclined to be "top-heavy," and that it was an antiquated policy to meet increase of work by increase in the number of Commissioners, and if that was the meaning of "antiquated" I quite agree, but I suggest that we have not pursued that policy.

3918. I rather gather, then, that you wish to put before us that from your point of view the Treasury failed to recognise educational interests which you felt bound to guard?—That is exactly the view I should wish to put, strengthened by Mr. Acland's observation, which I have already quoted.

3919. But would you allow me, as you refer to what Mr. Acland said, to point out to you that he suggested that the Endowed Schools Acts might be very much amended. If you refer to his answer you must take all of his answer?—I do not

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not think the Treasury have had much to do with amending or passing the Endowed Schools Acts.

3920. Sir Stafford Northcote suggests that I might ask you, is there any question still pending upon this matter between the Charity Commission and the Treasury?—Yes, I am sorry to say there is; because the Treasury, as Lord Welby mentioned, have made our request for rearrangement and increase of staff, at an absolutely nominal cost, because we give up with one hand what we propose to take with the other, a reason for refusing to concede what are admitted, as Lord Welby said, not only by himself but by the consultative committee which inquired into the proposals, to be reasonable and proper proposals. They still withhold their assent to those until, to put it shortly, we do something which we have no power to do. We have no power to diminish the number of Commissioners; that is done by a higher authority than ourselves; and whatever is done, of course it is for us to acquiesce in when it is done. And I may add that this policy of linking the permanent and the temporary work in reference to the demand by us for assistance from the Treasury is not a new one. Between the years 1875 and 1878 the Treasury did the same thing; but eventually on our representations receded from that policy and allowed us to present our proposals for a permanent staff independently.

3921. As a matter of fact no action has been taken, either at the Charity Commission or elsewhere, to carry out the minute of Mr. Smith?—No, I think not. I beg your pardon; I should like to correct that answer. As regards the Charity Commission, I would say that action has been taken; for when that minute was issued the number of Commissioners was six, and shortly afterwards we took the definite step of writing to the Treasury, and saying that we thought that one of the six Commissioners, at a certain time, could be dispensed with.

3922. That was one of the temporary Commissioners?—Temporary Commissioners like the Endowed Schools Commissioners. And also as regards the Charity Commissioners acting on the minute, we have always insisted on this (and this view I am glad to find is also strengthened by Lord Welby's evidence, Question 3352), that the minute was addressed to the Treasury and not to us. We were not told to act upon it; it was "an instruction to the Treasury," to use Lord Welby's words. Meanwhile, since that minute was written, a great deal has happened, and the whole position of secondary education and its relations to endowments have undergone a fundamental change. And further, whereas Mr. Smith's suggestion for an ultimate reduction in the number of Commissioners was fenced round with conditions and limitations, that proposal has been presented to us by the Treasury without reference to those conditions.

3923. It was submitted to you by the permanent secretary of the Treasury, in a covering letter of the 1st December, 1887, with a view that the Charity Commissioners should take some action upon it probably?—I think not. I have read that letter over very carefully, and I think

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it was merely communicated for our information; and I think I can refer you to a passage in that minute which shows that it was addressed to the Treasury. Paragraph 7 of the minute is as follows: "The First Lord thinks therefore that the approval of the Treasury should be given" to certain appointments on a certain condition; and then in paragraph 8 it says: "At the same time care must be taken in carrying out such a condition, that temporary Commissioners without right to pension are not replaced by permanent Assistant Commissioners with right to pension." That was a caution to the Treasury.

3924. The covering letter was addressed to the Charity Commission by the Treasury, calling their attention to this, on the 1st of December, 1887?—Yes, certainly; it is transmitted to us "for our information."

3925. Then we have it in evidence from Lord Welby that when other questions were raised some years afterwards, the First Lord of the Treasury, the same person, Mr. Smith, referred to this, and asked if any action had been taken on it?—Yes.

3926. Showing that in his mind he supposed action would be taken on it?—I think you can scarcely say that the late First Lord did anything at that time, as Lord Welby intimated, it was a very few weeks before his death.

3927. You wish to say something to us, I think, on your administration of the provisional system?—Yes. I think before I come to anything more general I had better deal with that. The first point I should like to mention which has been commented upon, I think, mainly in Mr. Thomas Ellis's evidence, is as to delay which is suggested to have taken place in the execution of work under the Endowed Schools Acts, and I think in Mr. Acland's evidence also. I think Question 2784 and the following questions deal more prominently than any others with that question of delay; and there I should like to observe that, as I think has been admitted in evidence, the delay there mentioned is incidental to a very special case, a case of which the Committee have heard a great deal, the case of Flint, a county scheme for Flintshire under the Welsh Intermediate Education Act. As regards that particular point of delay which is insisted upon a good deal by Mr. Thomas Ellis (and I quite understand his view of the matter, if I may venture to say so) I should wish to take personally all the responsibility for that particular delay. That question, the most important question I think that has come before the Board in my time, arose in the first week in September. Some members of the Commission were in London then, and the question was very seriously considered; but as the more we considered it the more grave the matter appeared to be, I took the responsibility upon myself of saying that the matter was one which I thought could not be decided without a meeting of the full Board. Meetings of the full Board, of course, at that time of year, are not very easy to obtain, and I think it was towards the end of October before that meeting took place. I may say in passing that it does not follow that because full meetings of the Board cannot be

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obtained, meetings of the Board are not held in those months, because I find that in each of the last two years there were 10 meetings of the Board in the months of September and October, However, as regards that, the special importance of the case will, I hope, justify the delay. Then as regards the Welsh work generally, there was a suggestion that there was delay there. Upon that I should like to say this: that looking all round at the work, as I am, perhaps, in a better position to do than most people, I think I can say that so far from that the Welsh work has rather ousted the other work. Its importance, of course, is very considerable, and now that we have the power, with the help of the local authorities, to cover Wales with an organised system of secondary education, it seemed important to complete that work as quickly as might be; and I have repeatedly, at the Board, seen important English business give way to the Welsh business; and I think I must take leave to say that the Welsh business in that way has not been delayed. Thirdly (and here I come to a point which has been dealt with very fully by Mr. Acland) no doubt delay is incidental to the provisional system, which provides for a certain duplication of work; but beyond that I do not think that we can charge ourselves with delay. And generally, and particularly with reference to the Welsh work, I should like to say this: that where we are accused of delay, very often a great deal of the delay is incidental, and very unavoidably incidental, to the fact that we have continually to wait, particularly in the endowed schools work, for communications from many different bodies, bodies which only meet occasionally, from time to time, and which it is difficult to summon for particular purposes.

3928. Is not that also covered by your admission that delay is incidental to the provisional system?—Yes; I think the provisional system involves a certain delay which will disappear when the permanent system is established. But even then there must be communications with local authorities involving this same delay.

3929. You concur in Mr. Thomas Ellis' remark made in answer to Question 2784: "I think delay is incidental to the very system"?—Yes, though I believe that a very short time ago a very eminent educational authority, giving evidence in a place I must not mention, said he thought there was not nearly notice enough given.

3930. Now you wish to say a few words on what has been termed the gulf, I think, between the Education Department and the Charity Commission?—Yes. I think that some of what I have to say upon that will come in better when I speak of the Minister of Education, if you will allow me.

3931. Perhaps you will proceed, then, to the next point?—I have to say something under that head, but I think it will all come in conveniently. On that word "gulf" which has been used I should like to say this: It has been suggested that there is a difficulty in dealing with cases at the Education Department because of the uncertainty as to the way in which we might look at alterations

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of schemes proposed by that department. Now, here again I think it appears in evidence that it is the Welsh work that is in fault, if fault be the right word in this matter. It has been suggested that there might easily be a deadlock as regards schemes, and that that is a difficulty in the present relations between ourselves and the Education Department. Now here we come to the two cases which have been mentioned already, Cardigan and Flint, which I will deal with more fully later on. Here I will say that these are the only two cases in which the Charity Commissioners have ever refused to accept amendment. In the case of Cardigan there was no serious difference between ourselves and the Education Department, and therefore I may say here, as I said in dealing with the last point, that the real point of the matter occurred in the case of Flint, where, no doubt, we did decline to accept amendment in a very special case, a case which is admitted on all hands to be a very special case. There we did exercise that power; but, as regards English work and the work generally, I think it may be said with confidence that there has never been a deadlock between ourselves and the Education Department. And I go further than that, and I would say this: that I do not think that the Education Department would say that they had any reason to believe that we should be unwilling to accept from them educational suggestions pure and simple. A few schemes, no doubt, have been hung up at the Education Department, but I think I may say that those have been hung up mainly, if not entirely, not because the Education Department were afraid that we should not agree with them in amendments which they suggested, but on account of severe political pressure which induced the Education Department to think that the schemes might well be suspended. That is all I have to say upon that point at present.

3932. Now you wish to pass to another point, to say something to us with respect to the "doctrine" which has been suggested to be held by the Charity Commission?—Yes. The passages to which you refer are at Questions 3031 to 3034 and 3126.

3933. It relates to the re-insertion in the scheme of something which has been condemned by Parliament?—Yes. Perhaps, as this is rather a complicated matter, the Committee will grant me their indulgence; and perhaps you will let me hand certain Papers round to the members of the Committee. I think it will save a great deal of time if I do so, because this matter depends a great deal on chronology. (*The Papers were handed in*, vide *Appendix.*)

3934. Now will you proceed, please?—This matter relates to the dealings between the Charity Commissioners and the Education Department in respect of certain schemes under the Welsh Act. But, in order to explain the position of the Charity Commissioners, it is necessary to refer to a passage in the Schools Inquiry Report, page 587, which I will read. After dealing with suggestions for the protection of day scholars as regards religious teaching, they go on

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on to say: "These rules would protect day scholars; boarders must stand on a different footing. A master who has boarders in his home is not merely a teacher; he has for the time the full responsibility of a parent. He ought to be able to regulate their prayers, their conduct, their religious learning, just as a father would. It is not right to require a man in that position to take a boy into his house, and yet not to have the guidance of his religious education. Some men would undertake such work; but many of the best men (such men, for instance, as Dr. Arnold) would not, and it is highly inexpedient to put impediments in the professional path of such men as these. The right thing to do, when a father disapproves of the religious instruction given in a boarding-house, and the master refuses to exempt the boy from such lessons, is not, in our opinion, to compel the master to grant the exemption, but to make arrangements for the boy to board elsewhere at the same rate, and attend the school as a day scholar."

3935. That is rather a far cry?—I am afraid I must ask for the indulgence of the Committee; it is a very important matter, and I do not think that the attitude of the Commission can be understood without referring to this. That provision, a provision based upon that recommendation, appears in Section 16 of the Endowed Schools Act, 1869. Section 15 provides for the protection of day scholars, and Section 16 makes a provision in that sense for the protection of boys proposing to enter a master's home as boarders. Section 15 was extended, that is to say the clause as to day scholars——

3936. Will you bear in mind, kindly, that we have already a detailed explanation of those specific sections?—I fear not, on this point. I have failed to read the evidence aright if you have seen anything on this point in it. The provisions of Section 15 of the Endowed Schools Act, 1869, as to day scholars, were extended by the 4th Section of the Welsh Act, Sub-Section 3, which made a provision analogous to that which is in force in Public Elementary Schools as to denominational teaching. In course of bringing in the Welsh Act, it was proposed to make some addition to the boarding conscience clause, Section 16 of the Act of 1869, but that proposal was dropped; therefore, the Welsh Act went on with an amended conscience clause, as compared with the Act of 1869, for day scholars, but with the original Section 16 untouched as regards boarders. This chronological statement, which I have just handed in, shows the progress of certain schemes: Cardigan, Montgomery, Merioneth, Flint and Denbigh, which were all published by the 21st February 1893; and in the course of the negotiations which took place between the Commissioners and the Joint Education Committee of Flint, prior to the publication of the scheme for that county, for the first time in the course of the proceedings under the Welsh Act, the Joint Education Committee of the County of Flint made a proposal for the insertion, in their scheme, of a provision dealing with religious instruction in boarding houses. That proposal, I should say, was made before we had arrived at

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that stage with the scheme for Merioneth; and that circumstance is one which has led to a great deal of confusion in the matter, because the Merioneth scheme came before Parliament before the Flint scheme. This proposed clause, which is the left-hand clause in the other paper before the Committee, called the "First Flintshire Clause," was prepared by the Joint Education Committee of the County of Flint. It was suggested that we should include it in the scheme which we were then about to publish, the Merioneth schemenot having then reached a stage which was approaching publication. We considered this proposal very carefully. We had hitherto, with a trifling exception in the County of Carnarvon, both in Wales and in England objected to go beyond that which Parliament prescribed in this matter.

Mr. *Jesse Collings.*

3937. Might I ask: "Is this first Flintshire Clause, the Charity Commissioners' clause?—No, the Joint Education Committee drew it and proposed it to us. We felt that to depart from that which Parliament had prescribed in such a matter would very likely involve the revival of the religious question as it is called, which I think I may say, under our administration of the Endowed Schools Acts has been virtually at rest for 20 years; and we thought it exceedingly dangerous, for that and other reasons, to be wiser than Parliament, if I may put it in that way.

Chairman.

3938. Is that all you desire to say here?—No. Eventually, having regard to the fact that this clause was proposed to us by a representative body for insertion in their county scheme, which was to be very largely financed by rates, and from other sources than endowments, at the disposal of local bodies, a consideration which weighed with us repeatedly in doing that which we should not have done in English schemes, we very reluctantly agreed to accept the clause. This was before publication. When we announced to the Flintshire Joint Education Committee that we proposed to accept their clause, they met us by saying that they had changed their minds, and that they would like to have the right-hand clause, the "Second Flintshire Clause." Now, I may just point out to the Committee why, after very great hesitation, we saw our way to accept the "First Flintshire Clause." It was because we thought that it might be so construed as not to violate the principle which is laid down in the passage I have quoted from the Schools Inquiry Commission Report. We considered that the last proviso, beginning: "Provided that the person in charge of a boarding-house if he so chooses" (the Committee will disregard the lines in red ink at present), "may, separately from such general religious teaching (if any), give, either by himself or by deputy, religious instruction of a denominational character, but only to those scholars whose parents have in writing expressed a wish for such instruction";—We thought that that would enable a master of a boarding-house, for instance, to prepare a boy who was a member of the Church of England for Confirmation; and we considered that the principle laid down in the Schools Inquiry Report, that the master of a

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boarding-house should stand in *loco parentis* was saved by these words. As I said, the "Second Flintshire Clause" was then proposed; and, to cut the story short, we eventually submitted the scheme to the Education Department as an alternative scheme; our scheme being in the "First Flintshire" form without the words underlined in red, and the Joint Education Committee's scheme being in the form of the "Second Flintshire Clause." But meanwhile, the County of Merioneth had heard of what the County of Flint were doing, and they proposed to us that their scheme should contain the Second Flintshire Clause, their scheme having, for several reasons, got into a more forward condition than the Flint scheme, which was hampered by considerations of a different nature; and so the Merioneth scheme was ready for publication and submission before the Flint scheme. Accordingly, on the 30th of March 1893, the two Merioneth Schemes, as I have mentioned, were submitted to the Education Department, thereby taking precedence of Flint, which was submitted in the same form; but later on, on the 10th of July. The Merioneth schemes being submitted to the Education Department, the Education Department suggested to us that they would do this: that they would reject the Joint Education scheme, the one in the right-hand column, and proposed to remit our scheme to us in order that we might alter it in the way indicated by the red ink bracket, so that it should run, "Provided that the person in charge of a boarding-house, if the county governing body so allow, and subject to any regulations they may make on the subject may, separately from such general religious teaching," and so on. The Board took considerable objection to that. It seemed to them that that would involve a departure from the principles of the Schools Inquiry Report, and that the person in charge of a boarding-house would then require the sanction of an external body who might or might not be favourable to the doctrines which he was asked to teach; that he would be unable to carry out those provisions without their sanction; and we at first hesitated very much to accept that proposal. Eventually, under what I think it is not unfair to say was very urgent pressure from the Education Department, the Board, with still greater reluctance, accepted that, and the scheme then went on in that shape. It came before the House of Lords in due course in that shape, that is to say, the red ink shape, on the 4th of September last. The schemes for Flint and Denbigh, the Committee will observe, had by that time been submitted, and were out of our power; they were before the Education Department in the first Flintshire form without the red ink alterations. The House of Lords dealt with the Merioneth scheme in the way indicated in the blue brackets, that is to say they directed us to stop at the words "boarding-house" in Sub-section (b), thereby cutting out what the Education Department and ourselves jointly had proposed in (c). Immediately after that came up the question of Flint, and within a very few days, in fact almost the very same day that the Merioneth scheme was altered by the House of Lords, came representations from the Education

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Department asking us to do in Flint that which we had done in Merioneth, that is to say, to accept the red ink clause. But we then had before us the fact of the dealing of the House of Lords with the clause; and accordingly, when, on the 9th of November, the Education Department remitted the Flint scheme to us, suggesting an amendment similar to that in Merioneth, we, I need not say after very full consideration, on the 25th of November, declined to make that alteration; and the reasons for which we declined to make the alteration were not reasons connected with the merits of the alteration itself. And now I come to the "doctrine" which has been suggested. I wish to say that there is no such thing as any doctrine whatever that when a clause has been once rejected it is always to be rejected.

3939. Now we will pass from that; I think as you have distinctly said that?—I think I must ask to be allowed to say something more.

3940. Having said that you do not hold such a doctrine, what more can you want to say?—I should like to say what our position was. Our position was this: We had, as I say, most reluctantly embarked on what now seems, at any rate to me, the unwise course of trying to be wiser than Parliament, going beyond Section 16, and the reason why we refused to go on with the Flint, and eventually with the Denbigh, scheme, was because we were confirmed in our grave doubts as to the policy of going beyond the Endowed Schools Act in this matter. A very serious and embittered controversy has been raised, as we were afraid from the first it would be; and in this special case we decided that we would, for the future, abide by the Act. That is a very different thing, I suggest, from saying that where an educational provision has been rejected by either House of Parliament we would not again insert it in any case whatever. In such a case we would have considered the circumstances of the case, and it is possible we might have re-inserted the same provision. But here we considered that a principle was at stake, namely, the going beyond the rule laid down by Parliament for our guidance in Section 16 of the Act of 1869. And I may say, lastly, that we have already had warning in this respect, for in an English scheme, the important scheme for Christ's Hospital, we had made a slight deviation from Section 16, and in that respect, and that respect only, that scheme had been disallowed by the Judicial Committee of the Privy Council. Therefore we had had the opinion both of the House of Lords and of the Judicial Committee of the Privy Council, that it was not desirable that we should go beyond Section 16. That is all I desire to say on the question of the "doctrine."

3941. Then we will pass now to what you wish to say with respect to the permanent educational work of the future. I think you are prepared to accept the view that that is to be met by a Minister of Education?—I think that has been admitted in evidence on all sides; and there I might refer to what I have said before about the provisional nature of our educational work under the Endowed Schools Act: that we have been carrying it on provisionally, waiting to hand it over

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over to what, no doubt, will be an improved organization. Permanent organizations deliberately conceived are naturally and generally better than a provisional organization. As regards the difficulties which are experienced by the present provisional organization, I cannot help thinking that a good many of them are due to the fact that the present organization and the present position has, as Mr. Acland said, drifted in some measure from what was originally intended. The Schools Inquiry Report, I think, intended something materially different from that which we have now. It contemplated, perhaps not immediately, a Minister of Education, and it says (p. 633): "If a Minister of Education should be appointed he would, of course, be the President of the Commission for *educational purposes*"; that is to say, the President of the Charity Commission. I should like to lay stress on those words "for educational purposes,' because they indicate that the Schools Inquiry Commissioners, at any rate, conceived that those "educational purposes" of the Charity Commission might in some way be distinguished from its other work. Then there being no Minister of Education, the Endowed Schools Act of 1869 was of course based on lines differing from those laid down by the Schools Inquiry Report.

Mr. *Howell.*

3942. You stated, in giving that quotation from the Schools Inquiry Commissions' Report, that the report contemplated that there should be a division between the two branches, and that the Minister of Education should deal with education only. Would not the point be rather this: that the Commission having only to deal with the question of education, they defined the question in relation to education, and took no cognisance whatever of the charitable work of the Commission outside of education?—I think they spoke of the Charity Commission as a whole, and they said that the Minister of Education "would be the President of the Commission for *educational purposes.*" I do not wish to press it too far, but it occurs to me, on that, that they seemed to think that the work was in some way capable of distinction.

Chairman.

3943. As you have already suggested, a good deal has happened since that report of a quarter of a century ago?—Yes, as I said, the Schools Inquiry Report appears to have considered that legal and educational considerations were susceptible of separation in some way or other, and in the same passage they depreciate the separation of charities, in page 633. But in 1869 there was no Minister of Education, things were not ripe for a Minister of Education, and on the other hand no local authority, such as was contemplated by the Schools Inquiry Report, had been created; and therefore the Education Department, organized as it was then, and as it is still, exclusively with a view to primary education, was put into a position which certainly was not contemplated originally, and, one may say, a somewhat anomalous position. In view, I would suggest,

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of the fact that a political department was interposed then, it is worth noting that the appeal given by the Act of 1869, from schemes confirmed by the Education Department (which appeal it was suggested by the Schools Inquiry Report should be an appeal direct from the Charity Commissioners), was not a strictly legal appeal. That appears from Section 39 of the Endowed Schools Act of 1869; I need not read it at length. Then in 1873, to follow the course of what Mr. Acland called the "drifting," the amending Act of 1873 was passed. Three important points of that Act were that all the schemes were not to go before Parliament, but only schemes required by certain authorities to go before Parliament; that the Charity Commissioners, as Mr. Acland has fully explained, should have further powers of amending schemes; and, lastly, that the appeal, which was only a *quasi* legal appeal to a non-judicial Committee of the Privy Council, should in future be an appeal to the Judicial Committee, and so that appeal came to be what has been observed upon a great deal here, a legal appeal from a political minister. But as a matter of fact from that time the political element, as Mr. Acland has said, seems to have rather receded, and the scheme-making authority has come more into prominence; and the appeal, I would suggest, originally conceived by the Schools Inquiry Report to be an appeal from the Commissioners, has come round to be again practically an appeal from them. The ordinary language in speaking of these schemes confirms that view; I think the schemes are always spoken of as schemes of the Charity Commission; you never hear them spoken of as schemes of the Education Department. And it is worth noting that the Charity Commissioners always conduct the defence of the schemes before the Judicial Committee, and not the Education Department. So that the significance of an appeal from a political Minister is a good deal neutralized by what has happened. That was in 1873. In 1874 a great deal more happened. Up to that time, although I am not in a position to say how far this was the case, and although opinions vary upon this point, I suppose there is no doubt that in a greater or less degree the work of the scheme-making authority, which was then the Endowed Schools Commission, was conducted in touch, in relations more or less close, with the Education Department, the approving authority. But a change of Government took place in 1874, which had the effect of removing from the vice-presidentship Mr. Forster, the author of the Bill of 1869. Other vice-presidents have followed him, and I think it is not too much to say that, the work of primary education increasing, they have not been able to give so much attention as Mr. Forster did to the work of carrying on the Endowed Schools Acts, and by degrees the Charity Commission, through, I think, as Mr. Acland said, no fault of its own, no fault of anybody's, has, by the failure of a Minister of Education on the one hand, and of local authorities on the other (all part of the original scheme), been forced into a position of prominence which, perhaps, was

Chairman—continued.

scarcely intended. That is, I think, a point that Mr. Acland has brought to the notice of the Committee, and I think there is very little doubt that we have come into a position of prominence which was hardly intended. In a large measure it is due to this that, as Mr. Acland repeatedly said in his evidence, his department, organised for the control of primary education, has not been equipped (I think that is the word he used, I am referring now to Questions 3263, 3271, and 3298) in a manner to enable it to deal educationally with the questions raised by these schemes. We, on the other hand, have been equipped with an educational staff, a staff of Commissioners and Assistant Commissioners able, I believe, to deal with those questions, and therefore, perhaps it is not unnatural that the relative position of the different authorities in this matter should have undergone some change. But, as I said, the whole system is provisional, and if the present position is not the right one, I would say it is merely a provisional system, and its days are coming, I suppose, to be numbered. I believe it is not too much to say that there is an agreement, on both sides of this House, that there should be a Minister of Education before long; both sides of the House are committed to it, and I suppose we shall not have very much longer to wait for that; and I would suggest that the inconveniences, if so they be, of the present system are not such, or so urgent, as to suggest any measures until the complete reorganisation of secondary education is accomplished, when, of course, if it is thought, as it assuredly will be, that the whole work of organising secondary education is not to be entrusted to the Charity Commission, that Commission will be prepared to hand over its educational work in some way or other to the Minister of Education.

3944. And that change would, in your opinion, obviate many of the difficulties which at present exist?—I think it would. I think many of the difficulties which at present exist about the position of the Commission and the Education Department are due to the provisional nature of the mode in which the work is carried on.

3945. So far as regards the educational work of the Charity Commission; now you wish to turn, I believe, to the legal work under the Charitable Trusts Acts?—Yes. I am not prepared to go further into the educational work. I do not think that the Committee would ask me to say what the Minister of Education will do, or how his department is to be constituted, but that he will deal with secondary education, I suppose, is undisputed.

3946. Now with respect to the legal work under the Charitable Trusts Acts, will you kindly go into that?—So much for the educational part of the work. Now we come to the question of how far it may be separable from the legal work. There is, of course, legal work to be done under the Charitable Trusts Acts, as the Committee have been thoroughly informed, in respect of all endowments, whether they are educational or non-educational; and the question is whether this work is separable or not. That it is not properly separable, or conveniently separable, in the way in which it was attempted to be separated, and was separated, by the constitution of the Endowed School Commission, I entirely agree; and in that case the Endowed Schools Commission took over a considerable part of what I may call the *trust* work of the Charity Commission in regard to educational endowments, chiefly as regards the preparation of schemes. They prepared the schemes, and, as some of the witnesses expressed it, I think particularly Mr. Fearon, during the five years for which that Commission existed, there were "two Charity Commissions," and I do not think I need trouble the Committee with a statement as to the inconveniences of that position. That was fully stated by Mr. Fearon in the Committee of 1886–87, and again to this Committee.

3947. And also by yourself at Question 304?—Yes, I think so. But I would suggest that the legal work, what I call the *trust* work, cannot be conveniently separated. There are considerable difficulties, no doubt, which were pointed out by other witnesses as to separating the legal and educational work, and I do not know that I should have ventured to suggest their separation if it were not that, as a matter of fact, that separation is, in respect of the other branch of educational endowments, going on in our office every day, There is a considerable number of endowments for purposes of elementary education. As regards those endowments we make schemes and we do all the work which we do in respect of other endowments, educational and non-educational; but those endowments, of course, have an educational side to them, as well as the legal side; and as regards the educational side we absolutely defer to the Education Department. Their code governs our schemes; we do not pretend to have an opinion on matters akin to education and such matters. Their inspectors consider questions which, as regards secondary education, are at present considered by our Assistant Commissioners, as to the fitness of the buildings and as to proposed sites. Their inspection, of, course, has a sanction which our inspection has not, namely the Government grant. At any rate, for the present purpose, there it is; the dealing with that branch of endowments is divided, and divided, I venture to say, without any considerable inconvenience. That division has been going on ever since I have known the Charity Commission, and I never remember any substantial difficulty. The departments, of course, have to communicate, but not in a very great many cases; and communication, as I think one of the witnesses has said, between our department and the Education Department is particularly easy, because we have been so long in the habit of communicating with each other, and I think the departments and their officers have a good deal in common which facilitates communication. My idea is that the Charity Commissioners might well continue to manage the trusts as trusts, the trusts for secondary education simply as trusts from their legal point of view, that we should still prepare the schemes, that I think is essential; (that was the blot in the original division between the Charity Commission and the Endowed Schools Commission) as we do in

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in the case of endowments for elementary education; but that, as in that case, so in this, we should defer educationally to the Minister of Education, he would provide us with our educational materials for making the scheme. What our functions might be as to the initiation of schemes I, of course, need not go into here, because that is going rather far into the future, but I would suggest that at any rate we should be the scheme-preparing authority, the authority to formulate the scheme, and that we should do it in strict subordination to the Minister of Education. Probably, in course of time, there would come to be something like codes and regulations, which would very much facilitate our work. I daresay there would be a good deal of difficulty at first, as there is always in the initiation of a new organisation; but when it came to be formulated the difficulties would not be, I should anticipate, at all insuperable.

3948. Would you suggest any advantages at this point?—Yes. The main advantage I should suggest is the advantage, to put it in two words, of saving the existence of two Charity Commissions, the keeping of the whole of the legal work in the hands of those who have a concentrated experience of that work all over the country, instead of dividing the work and setting that work to be done by bodies that would have to collect their experience from a narrower area; that on the principle of a division of labour it would be more economical, both in money and in time, that the legal work should not be divided.

Chairman—continued.

3949. Now, you have put before us a very important scheme; perhaps you will allow me to ask whether we are to take this from you in a representative capacity as representing the Commission?—No, if you please; only as my own.

3950. It is an individual scheme?—Individual. As regards the first part of my evidence to-day, it was given in a representative capacity; but this is entirely individual.

3951. Then one other question: Does this scheme carry with it to your mind the consequence of reducing the number of Commissioners?—Yes, I should think it would; that is to say, reducing the number of Commissioners to be employed, so to speak, on our side of the work.

3952. In Whitehall?—Our side of Whitehall. I suppose the consequence of this would be to draw the line between us and the Education Department at rather a different place.

3953. The point of my question really is this, I am sure you will appreciate it: Would it be in the direction of carrying out what was in Mr. Smith's mind when he laid down that minute; namely, a reduction in the number of the Commissioners?—Yes, I think it would be in that direction, and all the more because all those conditions would have been more or less fulfilled which he attached to his proposal of a reduction in the number of the Commissioners, as arranged by the Endowed Schools Act, 1874.

The Right Hon. Lord Justice Davey, called in; and Examined.

Chairman.

3954. Perhaps, in order to get it on the notes, you will kindly give us your connection with the Charity Commission, your experience in the matter?—In the first place, I may say that I practised at the Chancery Bar from the year 1861 until last year, and I had the usual run of experience, or rather more than the usual run of experience in Charity cases, because I was originally a pupil of Vice-Chancellor Wickens, who was a great authority on that subject; but for the last 20 years about I was standing Counsel, first as junior to the original Endowed Schools Commission, and shortly after I became a Queen's Counsel I became the standing leading Counsel to the Charity Commissioners acting as Endowed Schools Commissioners; and in addition to that, from about the year 1880, I conducted a large part of the Charity business in court at the request of successive Attorney-Generals. I also held a general retainer for the Commissions.

3955. Sir Henry Longley, the Chief Commissioner, suggested to the Committee that it would be advisable that we should hear from you your views as to "the judicial character" (I am quoting his words) "of a part, at least, of the business which comes to be transacted by the Charity Commission"; and the Committee assented to that, and they will be very happy to hear from you what you desire to lay before them as to that point?—In the first place, I presume you mean the ordinary business of the Charity Commission as such, and not the extraordinary powers exercised by them as Endowed Schools Commissioners under the Endowed Schools Acts. The two jurisdictions stand on a totally different footing; one is their ordinary regular jurisdiction, the other is an extraordinary jurisdiction arising only out of the Endowed Schools Acts. So far as their ordinary jurisdiction under the Charitable Trusts Acts is concerned, I cannot, I confess, bring my mind to understand how anybody could doubt that their work is of a judicial character. In the first place, what do you mean by "a judicial character"?—Work which is ordinarily done by judges, I suppose it means. If so, the jurisdiction exercised by the Charity Commissioners is only a portion of the jurisdiction of the old Court of Chancery now inherited by the Chancery Division of the High Court, which is by the Charitable Trusts Acts allotted to be administered by the Charity Commission. The foundation of the Charity Commission for this purpose was an experiment, and, I think, a successful experiment, in judicial arrangements. It was thought that this particular part of the jurisdiction of the old Court of Chancery which was administered by the judges

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of that Court, could be advantageously administered by a Commission which did not sit in Court and hear Counsel in the same way as a judge does, but still would exercise exactly the same jurisdiction, subject always to an appeal, originally to the Court of Chancery, and now to the Chancery Division of the High Court. That is the cardinal point to understand in regard to the Charitable Trusts Acts. And, indeed, not only is the jurisdiction exercised by the Charity Commissioners, part of that exercised by the Court of Chancery in former days, but identically the same jurisdiction is now exercised by the Chancery Division in all cases which do not come within the Charitable Trusts Acts; that is to say, for example, in the case of all charities whose income exceeds (I think the limit is) 50*l.* a year, where the trustees do not consent. Suppose, for instance, that the funds of a charity are in excess of the particular objects for which the charity was founded, and the income is upwards of 50*l.* a year, suppose it is 500*l.* a year, or 200*l.* a year, and the trustees do not consent to the Charity Commissioners exercising the power to make a scheme, you have to come to the Court of Chancery to do it. It is identically the same jurisdiction as is exercised by the Court itself; and unless somebody supplies me with some definition of what is meant by "a judicial character" other than that which I have mentioned, a jurisdiction which is ordinarily exercised in a judicial way through judges, I cannot conceive that there can be any question about it, so far as my understanding goes. If I might be allowed to go into detail, just to illustrate what I have said, I will take for instance what is no doubt the most important part of the jurisdiction which Parliament has thought fit to entrust to the Charity Commissioners, the making of schemes. Nothing can be more important than that. The Committee, of course, understand how that arises.

3956. We have had a long account with regard to the procedure?—The Committee, of course, will understand that the making of schemes arises where the funds are in excess of the particular objects for which the charity was founded, or where the objects themselves are obsolete, or where the machinery for administering the charity is obsolete. In cases of that kind, where it is expedient that there should be a new scheme, in former days that was done by the Court of Chancery, and there is a vast amount of charity law; I do not speak of procedure, but as to the circumstances under which a new scheme may be made and the extent to which the Court is at liberty to go in devoting property held upon defined trusts to some other trusts, what is called the *cy-près* doctrine. That jurisdiction is now vested in the Charity Commissioners where the income of the charity does not exceed 50*l.*, and where it does exceed 50*l.* with the consent of the trustees. Well, now what have the Commissioners to do? In the first place they have to ascertain what the trusts are upon which the property is held; and that involves very often this, that in the lapse of time the trusts have not been strictly performed, and you have to look at, and to construe, and to

Chairman—continued.

understand (to construe of course according to legal rules) old deeds, wills, and other instruments of foundation; and, secondly, having ascertained what the trusts are, you then, when you proceed to make your scheme, have to ascertain and apply the law relating to what is called the doctrine of *cy-près*. You have to ascertain the proper limits, meaning and application of that doctrine, and to apply it to the particular case before you within the limits which the law has assigned. That seems to me clearly a judicial action; at any rate it is one which leads to a great deal of litigation frequently. And, thirdly, you have to decide what is very often, as the Committee will understand, a very burning question, whether the trusts upon which the charity property in question is held are confined either to the Established Church, or to some particular denomination, or whether the property may properly be applied, consistently with the trusts, for the benefit of all persons irrespective of the particular religious body to which they belong. I am sure the Committee will appreciate that that raises questions which are frequently very hotly contested, and which must ultimately be determined on the sound construction, according to legal rules, of the instrument of foundation, whether it be deed, will, or any other instrument. Those are mere illustrations of the class of work that has to be done when schemes have to be formed. But then there is another branch of the jurisdiction (I am merely giving illustrations) which appeared to me to be eminently judicial, and which is, in a sense, a new jurisdiction created by the Charitable Trusts Acts; that is the very valuable jurisdiction of settling disputes and approving compromises.

3957. A kind of arbitration?—Yes, you are quite right, it is a kind of arbitration; and it can only be exercised by consent in disputes between the trustees of the charity and persons claiming adversely to the charity, or it may be persons claiming to be objects of the charity. That is a very valuable jurisdiction with regard to settling disputes and approving compromises. Compromises made by trustees with persons claiming adversely to the charity may be compromises as to the property, as to the boundary of the charity property with their neighbours. It may be, for example, that the charity property consists, as it frequently does, of a rent-charge, or a charge of some kind upon a landowner's property, and deeds have been lost, and the things have fallen into irregularities, and compromises are proposed; and whether those compromises should be accepted on behalf of the charity or not is very often a very nice question. Of course you must exercise your discretion; it is a judicial discretion; and the Charity Commission have to take care that the rights of the charity are not unduly infringed by any compromise of that kind. But in order to see that the rights of the charity are not unduly infringed by any proposed compromise they must of course form an opinion as to what those rights are. Then there is another class of cases in which the Charity Commission exercises a jurisdiction very similar to the jurisdiction exercised by the Chancery Division

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Division over trusts generally. There is a very valuable provision of the Charitable Trusts Acts enabling a trustee who is in doubt as to his legal powers, or it may be as to a matter of discretion, whether he could do such and such a thing which he is asked to do, without committing a breach of trust, to go to the Charity Commissioners and ask for their opinion and advice. The value of their opinion and advice, of course, as private individuals, would depend upon the ability and knowledge and experience of the persons who gave it; but the Act of Parliament has annexed to it that the opinion of the Charity Commission, given on a case stated to them, exempts the trustee who acts upon it, as it ought to do, from being afterwards charged with a breach of trust in so acting. That is precisely similar to the valuable power which the old Court of Chancery had, and the present Chancery Division has, of doing the same for trustees on any private trust. If a trustee is in doubt whether his trust permits him to take a certain course, he can go to the Chancery Division, and the Chancery Division summons before it the persons who are interested in saying that the trustee ought not to take that course. In the same way the Charity Commission can give notice to the persons who are interested in taking another course, and hear what they have got to say; and then they have to give their opinion and advice to the trustee who seeks it; and that advice will have the effect of relieving the trustee from being afterwards charged with a breach of trust. Those are only illustrations of the kind of jurisdiction which appears to me, so far as I understand the meaning of the expression, to be eminently of a judicial character; at any rate, it is exactly the same jurisdiction as is exercisable, and as has always been exercised, by the courts of this country. But, as I ventured to say just now, what appears to me to show that it is a judicial discretion, a jurisdiction to be exercised in a judicial way, is that an appeal is given to the Court of Chancery against any decision of the Charity Commissioners. I have myself argued several such appeals. There are certain restrictions on the right of appeal; you have to give certain notices and so forth; it is unnecessary to go into that; I do not remember them at this moment.

3958. May I interpose one question; are you a member of the court now before which appeals might come from the Charity Commission?—Yes, ultimately. They would go, in the first instance, to a judge of first instance, and then they would come by way of appeal from that judge before the court of which I am a member. A person is dissatisfied with some scheme, say, which has been made by the Charity Commissioners; he thinks that it involves too great a departure from the trusts upon which the property is directed to be held; or it may be that the scheme has provided for the income of the charity being applied to all persons alike irrespective of the particular form of religious denomination to which they belong. Well, he is dissatisfied, and he comes to the court and complains. Then it is argued, like any other

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appeal; it is argued by counsel on each side, and the court decides according to its views of the charity law (there is a vast body of charity law; the number of cases, of course, has created a large body of experience and precedents) applicable to the particular case. One of the most remarkable appeals of the present time that occurs to my mind is that I think I was in, that great charity at Kensington, the Campden Charity. A certain Lord Campden and his wife had given 2,000*l.* to be laid out in land, the proceeds to be given in doles and in apprenticing poor boys. The land in Kensington on which it was laid out, instead of being worth 2,000*l.*, is now worth a very large sum a year; and consequently a new scheme was required for this very large charity, and some inhabitants of Kensington were extremely dissatisfied with the action of the Charity Commissioners, and appealed, and it was argued before, I think, Vice-Chancellor Hall, in the first instance, and then it came before the Court of Appeal. The Court of Appeal affirmed the scheme of the Charity Commission. That is an instance of the way in which these cases are dealt with as proper cases for the exercise of judicial discretion and judicial knowledge and experience. I think that is all that I need say.

3959. That is all you desire to say on the judicial character of the work?—Yes; that is the sole question which I understood that you desired me to express my opinion upon.

Mr. *Donald Crawford.*

3960. I think you said that making schemes is, perhaps, the most important part of the work of the Commission?—The most important part, but it does not by any means comprise the whole of their work. There is the appointment of new trustees, and looking after accounts, and exacting accounts, and a great deal of other work; but I gave you what I conceived to be the most important, at any rate, it is the part that has most frequently come before me naturally.

3961. Apart from the element of appeal, which you say is significant of the judicial character of the proceedings, would it not be true that the making of a scheme would be a function that might be very reasonably entrusted to an administrative body?—Certainly not, in my opinion, unless, of course, you like to say that charities may be applied by scheme to any charitable purpose you please, then yes; but if they are to be applied according to the well known, and by lawyers well understood, legal principles applicable to charitable trusts, no.

3962. Then how do you distinguish in that respect the schemes of the Endowed Schools Commissioners, with regard to which under several clauses really a great many points arise, do they not?—A great many.

3963. They are not subject, except in a different way, to legal appeal?—I have had a great deal to do with the Endowed Schools appeals, and, speaking broadly, whenever the Endowed Schools Commissioners have to decide any

Mr. *Donald Crawford*—continued.

question of law affecting any individual, there is an appeal to the Privy Council. I think you will see, if you look at the appeal clause, that that practically covers every case in which the Charity Commission have judicially to determine any question affecting any individual. Remember that the question whether the *cy-près* doctrine is properly applied does not arise under the Endowed Schools Acts, because the Endowed School Acts give them power to alter the trusts in any way they please; but on the question whether certain charities which are not educational, but which on certain conditions are by the Acts brought within the scope of the Endowed Schools Commissioners, are properly of that character there is an appeal to a judicial body.

3964. On the remaining part of the functions of the Endowed Schools Commissioners, do you see any objection, in principle, to their procedure under which they are responsible to Parliament?—No, certainly not; and that is perfectly right; because, observe, the Endowed Schools Acts give power to the Commissioners to make schemes and to do work which only Parliament can do; that is to say, they may divert (I will give you the strongest instance I know) an endowment founded for the purpose of scholarships at Oxford into an elementary school or grammar school in the locality; they may take away a grammar school from one place and plant it in another. All that is perhaps far beyond the jurisdiction of any court, and such as could only be exercised, apart from the Endowed Schools Acts, by Parliament itself, through an Act of Parliament; and therefore, properly, as I think, an appeal is given to Parliament on the policy of any scheme, inasmuch as the Commissioners are delegates of Parliament for the purpose of making schemes which Parliament only could make; and that seems to me the essential distinction.

3965. Do you think that it is the wider powers, speaking now of the Edowed Schools Acts, that make the responsibility to Parliament appropriate and necessary?—Yes.

3966. And if this were suggested, that the other part of the work of the Charity Commissioners under the Charitable Trusts Acts should be brought under the supervision of Parliament also, giving the same legal appeal as there is under the Endowed Schools Acts, would you say that the only objection to that is that the powers to the Commissioners under the Charitable Trusts Acts are so limited that the supervision of Parliament is unnecessary?—You must first be good enough to tell me what you mean by being "brought under the supervision of Parliament." In my opinion every public body is under the supervision of Parliament, in the sense that their acts could be questioned in Parliament.

3967. I meant in a similar way to the work under the Endowed Schools Acts?—That their schemes should be approved in Parliament, do you mean?

3968. Yes?—I see no objection to that, except this: You know that it is rather an anomaly. Supposing for example that there had been an appeal to the Court of Chancery, and the Court of Chancery had affirmed the action

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of the Charity Commissioners as being in accordance with law, it rather shocks my prejudices, perhaps you will call them, but it rather shocks my mind that there should be anything like an appeal there, that the judicial acts of a court of justice should be questioned in Parliament, and be capable of being reversed. Of course, every judge may have his decisions questioned in Parliament, but I am speaking of their being capable of being reversed.

3969. I do not think I have quite made myself plain. I meant to point to the possibility of the procedure being rather more closely assimilated to the procedure under the Endowed Schools Acts, and in that respect there is a difference?—But then you will remember that under the Endowed Schools Acts, as I pointed out just now, there is no appeal to a court of justice on any question of policy, and necessarily so, because that is not a matter of law, because the Endowed School Commissioners are perfectly free in that matter; whereas in schemes under the Charitable Trusts Acts, one of the questions most frequently the subject of appeal is whether they have not exceeded the limits of the *cy-près* doctrine; that is to say, whether they have not applied the property which was given upon certain trusts, to trusts which were beyond the scope of the instrument of foundation. Now that is eminently a legal question; but that question cannot arise under the Endowed Schools Acts, and if the court of which I have the honour to be a member, for instance, the Court of Appeal, were to decide that the scheme did not transgress the limits of the *cy-près* doctrine, and Parliament were to decide that it did, Parliament would be in effect questioning and overruling the decisions of the courts of this country, and that, to my mind, is entirely contrary to principle. That is what I mean.

3970. I quite understand; but of course it does bring the matter to a very narrow point?—If you will let me, I think I can put what is in your mind at once. Proposals have been made, and while I was connected with the Commission they were made, for giving the Charity Commissioners larger powers, for giving them the same powers of making schemes in charities generally as they have under the Endowed Shcools Acts, that is to say, free from the fetters of the *cy-près* doctrine. In that case I think there ought to be an appeal to Parliament, because that is not a legal question, but a mere question of policy.

3971. The necessity of the close connection with the Court of Chancery, which to a large extent, as you have said, implies a judicial character, arises from their being bound to administer the *cy-près* doctrine?—Their being bound to administer law, I should say; to act in accordance with law. The Endowed Schools Commissioners are not, they are much more free; they can divert a grammar school from one place (and complaints of that have been made by one right honourable Member, I know) to another place. But the Charity Commissioners in the regular exercise of their jurisdiction cannot do that. They

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Mr. *Donald Crawford*—continued.

are a legal body, acting in accordance with law; they are bound to make their schemes in accordance with law; and as long as they are bound to do that it appears to me that the proper court of appeal is a court of law. But if, like the Endowed Schools Commissioners, they were invested with the power of putting the charity into a hotchpot (I do not say it would not be a good power), and disposing of any charitable property for any charitable purpose they pleased, irrespective of the trusts upon which it is held, and irrespective of the rules of law applicable to these trusts, then I think that Parliament would be the proper court of appeal for the exercise of such a power.

3972. But do I rightly understand that if, without using the word "law" generally, their obligation to follow the *cy-près* doctrine were removed, if their powers in framing schemes were made co-extensive with the power of the Endowed Schools Commissioners, then there would be no objection on principle to the procedure going on similar lines?—I do not think there would be on principle; you mean apart from details?

3973. Apart from details?—No, I do not think there would be. In fact, I would go further; I should say it was necessary, because Parliament would be delegating some of its functions to the Commission which ought to exercise, therefore, its delegated functions under the control of the body which delegated them. But remember it is a very strong thing to say that you may divert a trust which is given for a specified purpose for a specified locality (Parliament of course can give such powers), to a charity of a totally different character, in a totally different locality. It is a very large power; but it far exceeds any power that the Charity Commissioners have as Charity Commissioners.

3974. But still that power has been given them upon one side?—In the Endowed Schools Acts.

3975. And then with regard to the other charities; is it not the case that the other charities in an extremely large proportion of cases have an educational element?—If there be anything which has the slightest educational flavour it comes under the Endowed Schools Acts. I think you will find that the definition is very large indeed.

3976. With the consent of the trustees, is it not?—No; that applies to a different section, where it is partly educational and partly not.

3977. One element in the procedure under the Endowed Schools Acts is not only the bringing of the case before Parliament, but it receives the approval of a Minister?—Yes; that is to say the Minister has a veto; he cannot alter it. I conceive that the object of that was to keep the schemes in accordance with the general educational policy of the country. Many of these schemes, you know, deal with elementary schools, and it is essential that you should have continuity of policy.

3978. In looking at the judicial character of some of the work of the Charity Commission, which I suppose no one would contest, is it not a very peculiar feature of it that it is not an open court?—Yes, it is. I called it a judicial experiment; I think it was Mr. Lowe who called it that.

Mr. *Donald Crawford*—continued.

Mr. *Lawson.*

3979. A judicial discovery?—A judicial discovery he called it; and it was undoubtedly an experiment. It was thought that cases of this class could be dealt with subject always to an appeal, by a Commission, and I think it has been a very successful experiment.

Mr. *Donald Crawford.*

3980. Do you not think it is rather an objectionable constitution of the court of justice that it should not be an open court, but a court without the opportunity of the contact with the open air, that the presence of counsel and the publicity of proceedings gives?—If it is a court I think that is a very great drawback; but I do not want to be supposed to say that a judicial body is influenced by its decision on legal questions by the consideration whether it is an open court or not. It endeavours at any rate to decide according to law.

3981. Might I ask what you say to this consideration or this suggestion; I think it has been given to us in evidence that appeals are rare?—Yes.

3982. It is a fact that might cut both ways, and that in consequence of so much of the jurisdiction in this matter being transferred to the Charity Commissioners, the Court of Chancery and the Chancery Bar really has comparatively little experience of these cases?—They have not nearly so much as they used to have when I first came to the bar. Before I came to the bar there was a great deal more charity work than there is now; there is very little charity work now.

3983. Then in that way the Charity Commissioners are practically in very little contact with a court of justice any more than with the public; does not that rather raise some question as to the perfection of the present system?—No, I think not. Let me not be misunderstood. I think not for the purpose for which we are considering it; because, subject to certain restrictions, persons have a right to appeal, and the small number of appeals is some evidence of the general satisfaction that the Charity Commissioners give in the exercise of their jurisdiction, and I may add that if it is a fair appeal, in most cases the costs would be allowed out of the charity estate, if it raised a fair question; in many cases certainly they would. But then, of course, there is another point of view which I am not entitled to consider, namely, that although the Charity Commissioners are a body bound by their acts to decide in accordance with law, a large part of their jurisdiction undoubtedly raises questions of policy. Within the limits of the *cy-près* doctrine itself in framing schemes, there is a very large latitude allowed, within which discretion may be exercised; and with regard to that it has always been

Mr. *Donald Crawford*—continued.

been my opinion, and I think it will be found expressed both in Parliament, when I had the honour of being a member of your House, and before a previous Committee, that the largest influence ought to be given to the breath of public opinion, if I may use that expression; but all I say is, that as long as the Charity Commissioners are bound to decide according to law, they are a judicial body.

Mr. *Lowther.*

3984. I will only put one question to you; you were for some time, I believe, a law officer of the Crown?—Yes, for a short time.

3985. And in that capacity, of course, references from different Government departments came to you?—Yes.

3986. Do you know any other Government department which exercises so many judicial functions, such as you have described to us to-day as the Charity Commission?—No, the jurisdiction is of a totally different character to my mind. The nearest approach to it would be the Board of Trade in bankruptcy, and the winding-up; but there it is a kind of hybrid jurisdiction, partly shared by the Board of Trade, and partly by the courts. But there the judicial work is supposed to be done by the courts, and the purely executive work is done by the Board of Trade; whether it is successful or not is not to the purpose; but I know of no department where anything like the work entrusted by the Charitable Trusts Acts to the Charity Commission is performed.

Mr. *Lawson.*

3987. In reference to your last answer in regard to bankruptcy, it is true, of course, that the judicial officers in the Board of Trade are like other civil servants?—I was speaking, you know, of the ordinary jurisdiction of the Charity Commission.

3988. Yes; the judicial officers in the Board of Trade are appointed, and hold their offices on the same terms as other civil servants?—Do you mean the official receivers?

3989. Yes?—I do not call them judicial officers; they are merely trustees of bankrupt estates.

3990. You spoke just now of certain powers exercised by the Board of Trade which were more like those of the Charity Commission than those of any other department?—I said the nearest approach to them; but it is very different in character.

3991. What functions were you alluding to?—Well, that is a long story. Under the Trade Marks Acts the Board of Trade had the power of saying whether a man should have his mark registered, or whether he should have it struck off the register. There is no appeal from the president of the Board of Trade if he takes upon himself to decide. But where any question of law arises the Board of Trade may send a case to the courts to be decided in the ordinary way; and wherever a question of law does arise it is the practice to send it. That is an illustration. Then in bankruptcy procedure the respective functions of the Board

Mr. *Lawson*—continued.

of Trade (I am rather afraid to speak upon this subject) and the court are not perfectly defined, and some friction occasionally arises.

3992. An official receiver, for example, examines of course into the affairs of a bankrupt company?—Yes.

3993. And then he may take proceedings in the court, may he not?—I do not know; I suppose he may, like any other trustee of a bankrupt estate, as plaintiff; but he does not exercise any judicial function.

3994. And you do not think the Board of Trade is comparable to the Charity Commission in these respects?—No, it exercises its functions in a totally different way.

3995. There is no appeal to a Court of Justice from the decisions of any of these officers that you have been speaking of?—The President of the Board of Trade? No; that would lead to confusion. The appeal from a Minister acting within his functions is to Parliament, not to the courts.

3996. In the case of patents they state a case, do they not?—They either direct a case to be stated to the court, or else they direct a summons to be taken out in the proper court; in fact they give leave to commence an action.

3997. Is there any Department of State from which there is an appeal to a court of justice?—No, none that I am aware of.

3998. But of course you limit your definition of the judicial character of the work of the Charity Commission entirely to the administration of the *cy-près* doctrine?—No, if you mean by "judicial character" of such a character as is ordinarily exercised by a judge. I only gave that as an illustration, and in my opinion, the most striking illustration.

3999. I understood you to say that in an administration of the law according to the *cy-près* doctrine in the Court of Chancery they were performing judicial functions for example; under the Endowed Schools Acts they are acting entirely in a different way?—Yes.

4000. And by different methods?—Yes; that is to say, they act in accordance with law and outside the law; it is not really outside of it, because it is statute law.

4001. Then what other functions are there performed by the Charity Commissioners in which, according to your strict definition, they are doing judicial work?—I gave several examples. For example, when trustees come to them for advice and assistance as to the execution of their trusts, that is exactly the same function which the Court of Chancery would perform for you if you were in doubt how to execute a trust of which you were trustee, and you went to the court. The Court would tell you what you might do and what you might not do.

4002. Is that different from work which is done in other spheres by other departments of the State?—It appears to me very different.

4003. In what way?—I cannot see the similarity.

4004. Take the Local Government Board; suppose the case arises there. I take it that a corporation coming for assistance and advice would

Mr. *Lawson*—continued.

would get it from the Local Government Board?—I have not got, of course, all the Acts of Parliament relating to the Local Government Board in my head, but I do not think that the Local Government Board can give advice of a binding judicial character to any corporation or anybody else.

4005. I did not say that?—That is exactly the point. The advice and assistance given to trustees by the Charity Commission will relieve them from any charge of breach of trust afterwards; but I am not aware that the Local Government Board have such powers.

4006. You say no other department of State has such power?—No, so far as I am aware.

Mr. *Russell.*

4007. I rather question you with great diffidence as a layman questioning so distinguished a lawyer, and I ask the questions which I do ask not for controversial purposes, but merely for enlightenment. As I understand your view of the Charity Commission is that it is a judicial body, and that being a judicial body, it is characteristic of it, that it has to act in accordance with ascertained principles of law, and that its action is limited by those principles?—Yes. I added that within the limits of law of course there is a wide field of discretion.

4008. But that it is bound to guide itself, as a court would be, by ascertaining the principles of law?—So I understand the Acts.

4009. And as I understand what we have heard of so often in this enquiry, the *cy-près* doctrine, is one of those ascertained principles of law?—With a very ragged edge.

4010. Is there a case in which a charity left for the relief of the prisoners of the Barbary pirates was applied under Lord Brougham to the education of children in the City of London?—I think it was to the education of children in the City of London; but of course that case was much considered. The purpose had wholly failed, and you had to find another purpose. The testator had given other property to this educational purpose, and the court held that he had manifested in that way his favour towards that object. It was a peculiar case.

4011. Would you regard that case as a remarkably extensive application of the *cy-près* doctrine?—Very; it is the most extensive I know.

4012. An extreme case?—An extreme case.

4013. But still though an extreme case I suppose a case which is possible to arise again?—Yes, in principle. I do not suppose any person will find any more charities for the relief of prisoners taken by the Barbary pirates.

4014. Or that there are other charities in existence for that use which have not been recovered?—I should think not.

4015. I was under the impression that they had been applied in many cases for the relief of discharged prisoners?—Yes, they have.

4016. But I may take that instance as an extreme, but not impossible, instance of the application of the *cy-près* doctrine?—It certainly

Mr. *Russell*—continued.

illustrates the width and largeness of the *cy-près* doctrine.

4017. As far as that doctrine applies, then, to the action of the Charity Commissioners, they have, even having regard to that doctrine, a very large latitude indeed?—They have a large latitude; as I said just now they have a wide field for the exercise of discretion.

4018. But the Endowed Schools Commissioners have an even wider latitude?—Yes; they are only confined in the purpose to which they can apply the Trusts under their care to educational purposes; and "educational purposes," if you look at the Act, has a very wide construction.

4019. What I was trying to arrive at was this: We say that the Charity Commissioners are a judicial body, and bound to guide their action by ascertained rules of law; among those rules of law is the *cy-près* doctrine; the *cy-près* doctrine has a very wide possible application, as we see, but the Endowed Schools Commissioners have even wider powers than the *cy-près* doctrine stretched to its furthest would give them?—Yes.

4020. May I ask, have you formed any view on this. It has been constantly suggested in the course of this inquiry that it would be to the public interest if the powers of the Charity Commission and the Endowed Schools Commission, and I may say roughly the Education Department, were all centred together in the hands of one great political official or Minister responsible to Parliament. Without at this moment asking you whether you think such a change would be desirable or not, may I ask if supposing it were desirable, it would be necessary then to clothe this new Minister, when he was set up, with larger powers than the Charity Commission now has, with its *cy-près* doctrine, and powers more resembling those which the Endowed Schools Commission has?—I cannot say whether it would be necessary to clothe him with those powers, but as a matter of fact he would have them, because I conceive that it would be contrary to practice that a decision of a Minister of the Crown acting within his jurisdiction should be subject to review in the courts of this country. The proper appeal from a decision of a Minister of the Crown within the ambit of his functions is, I conceive, Parliament, and not the courts of the country. He would therefore be practically free from any appeal to the courts, and it would become a mere matter of his satisfying Parliament, not as a court of justice, but as the supreme legislative and administrative body in this country, as to his conduct. So that practically, whether you did it in terms or not, in my opinion, it would convert him from a person acting judicially and subject to an appeal to the courts, into a person in the ordinary position, which we are familiar with, of a Minister of the Crown who is responsible for his decisions in his office only to Parliament.

4021. In the first case which I contemplated, the clothing of this Minister with the powers of the present Charity Commission, he would be subject in the exercise of those powers, to the courts of law, if he had only the powers of the Charity Commission?—Yes.

Mr. *Russell*—continued.

4022. But in the case which you contemplate as certain to arise he would not be subject to that control?—You will excuse my saying that I must apply one's ordinary knowledge of Constitutional and Parliamentary law; I cannot conceive Parliament passing an Act of Parliament which gave an appeal to the courts of law to review the decision of a Minister of the Crown acting as such.

4023. That is what I mean, that in the case contemplated by many in connection with this inquiry of the creation of a Minister responsible to Parliament, he must of necessity have a different power from that which the Charity Commission has?—In my opinion that would be the inevitable result.

Mr. *Wickham.*

4024. The right of appeal against the decision of the Charity Commission may be exercised by many people, may it?—Yes.

4025. Not only by the trustees?—No, by many people aggrieved. I think there is an appeal given to two inhabitants by leave of the Attorney General, and of course, in any proper case h e Attorney General gives leave.

4026. That fact would seem rather, would it not, to strengthen the satisfaction with the decrees of the Commission which is implied by the rareness of appeals?—It would.

Sir *Stafford Northcote.*

4027. With reference to a question that Mr. Russell put to you, do you see any advantage in the creation of a Minister who would only have to satisfy a temporary party majority as to the legality of his action over the maintenance of such a body as the present Charity Commission who are subject to appeal to the Court of Chancery?—You must remember that you are putting that question to a lawyer who has been brought up in legal principles all his life and a judge of the court. I should conceive seriously that in many cases it would be far more advantageous that it should be treated as a matter of law in the ordinary way by the courts. I will give you one example which will commend itself, I am sure, to every member of the Committee; and that is on that burning question of the religious difficulty. Is it a charity held in trust for members of the Church of England exclusively, or for members of some particular denomination exclusively, or is it a charity which can be applied according to law for the benefit of everybody, every Englishman, irrespective of his religious belief? Now, on a question of that kind, which depends on the construction of a deed of foundation, and upon which the courts have laid down certain rules conceived in a very wide spirit, I can conceive, with the greatest possible respect to the Committee, that Parliament would be one of the worst bodies to decide. I shall not be supposed to be wanting in respect to Parliament, I am sure. Now a question of that kind would be decided strictly, according to law, by a court of law. I only give that as an example.

Chairman.

4028. I did not ask you any question on that question which has just been asked, or on one asked previously, because, as I hold, it lies entirely outside the limiting words which I read at the outset of your evidence?—I have endeavoured to confine myself to answering the questions asked by honourable members.

Mr. *Jesse Collings.*

4029. No doubt the question I am going to ask you is a very elementary one, but for the benefit of our public readers I should like to get it in our evidence. The decisions of the Courts of Justice, the Court of Chancery, with regard to the powers of the Charity Commissioners under the doctrine of *cy-près*, represent what the Charity Commissioners may do?—Yes.

4030. And not what they are compelled to do?—No; the question comes before the court in this way. Have the Charity Commissioners exceeded their powers or not.

4031. And the decision shows the limits in that direction to which the Charity Commissioners may go?—Yes.

4032. Then in a case where, for instance, doles were considered excessive, such as the Campden Charities, where the court decided they might divert them?—They diverted them into pensions in that case.

4033. The Charity Commissioners might exercise the same powers, we will say, in a small village where they were not considered to be excessive, and where the circumstances were different?—If the income was under 50*l.* they might do so upon the application of two or more ratepayers; but if it were over 50*l.* only with the consent of the trustees.

4034. But they are not compelled in that case, though they have the power, to exercise it?—No.

4035. Looking at the wide manner in which the doctrine of *cy-près* has been decided by courts of law, would the Charity Commissioners have any further power if the doctrine of *cy-près* were taken out of the Act altogether?—Yes, I think so; because I do not think that the doctrine of *cy-près*, excepting in a very peculiar case, like that of the Barbary pirates, where the objects have become actually extinct, would enable them for example to convert an eleemosynary charity into an educational one, or *vice versa.*

2036. That is constantly done?—By the Endowed Schools Commissioners the Charity Commissioners acting as Endowed Schools Commissioners. I do not know whether you were here when I pointed out the difference.

4037. Yes. The point I wanted to ascertain was that in all cases they have a great discretion?—It is very large.

4038. They are not in all cases obliged to carry out their powers to the extent that the court says they may?—No, they are not.

Mr. *Howell.*

4039. On a point put to you by two or three honourable members of the Committee as to the exercise of judicial functions, do you know whether

Mr. *Howell*—continued.

whether it is a fact or not that the Registrar of Friendly Societies is constituted a court of justice to review cases as arbitrator, and that there is an appeal from his decision to the High Court?—I was not aware of that, but I can quite conceive that that might be so; he would be sitting as an arbitrator with a special appeal.

4040. He is under the control of the Home Office?—Not in his judicial functions; the Home Office could not direct him to give a particular decision.

4041. That is the department under which he is?—In a sense.

Chairman.

4042. I have only two questions in conclusion. I think we had better get it accurately: how long were you Law Adviser of the Crown?—I think it was during the short Government in 1886; that would be from February to July.

Chairman —continued.

4043. You were Solicitor General?—I was Solicitor General.

4044. Then you were 20 years, we understand, standing counsel to the Charity Commission?—To the Endowed Schools Commissioners.

4045. Were you very frequently consulted each year during that 20 years?—What do you mean by very frequently? I had a fair number of cases from them, and I think I have argued in nearly all the appeals to the Privy Council; not quite all, because after I was made Queen's Counsel I ceased, of course, to act as standing junior counsel, and I was not at once appointed their standing leading counsel; but I have argued nearly all the appeals, and certainly in recent years.

4046. Wholly under the Endowed Schools Acts?—Under the Endowed Schools Acts.

Sir HENRY LONGLEY, K.C.B., recalled; and further Examined.

Chairman.

4047. HAVE you anything to say to us with respect to the question as to how far the legal work of the Charity Commission is in touch with Parliament?—The evidence that I have just given is based, as the Committee will understand, upon the assumption that a Minister of Education will soon appear, and that, whatever one's opinion may be, he must have the control over the whole of secondary education, including educational endowments. That is the basis, I should like to say, of what I have to say now. If that is so, if we are relieved of educational work, as educational work, there is no doubt that our work would be a great deal lightened, and we should be relieved of that part of the work which although, as I stated, in numbers it does not appear to be of such magnitude as the Charitable Trusts work, yet fills a very large place in public attention; and that, I think, is the main reason why I should be willing, on the balance of advantage and disadvantage (because I do not wish to speak too positively on such a matter, but only to give the best opinion I can come to), that we should continue to be represented as we are now. I have said already that I consider, from our point of view, we are really more closely in touch with Parliament than departments which are represented by a political chief. We have nobody to stand between s and Parliament. That is, I think, stated in my former evidence. The question raised by Lord Welby was: assuming that our work, speaking now of the legal work, was to be carried on by a Board, which he seemed to think that it should be, whether the Board should be politically controlled or politically represented (I will just give the reference to some of his answers; 3367, 3380, 3391, 3396, 3458); and assuming as I do, at least it is my opinion, that our Board should not be politically controlled, there is the question whether it should be politically represented; and the difference between that and our present representation, which I think has been treated by the Committee,

Chairman —continued.

or before the Committee, as not political, is really whether our work shall have in any respect a more political complexion.

4048. Just one word upon that; may I ask you, does not the Parliamentary Commissioner change as political parties change sides in the House?—Yes.

4049. To that extent it is political?—Yes, I do not wish to deny that; and upon that question whether we should be more closely in touch with political considerations or not I should wish to say this: that in reference, in particular, to what Mr. Thomas Ellis said as to our need of more powers and the impossibility of getting them unless we were in closer touch with Parliament, I, on the other hand, cannot but think that there would be more difficulty in getting an increase of our powers if we were in closer touch with Parliament. The Commissioners have often been considered to be mistaken and wrongheaded, but they have never been accused or even suspected of political bias, I think. Now it can scarcely be that if we are represented by a Minister there should not be some suggestion of that sort; and difficult as it is now to get an increase of the powers necessary for exercising a central control over charities, I cannot but think (speaking, of course, for myself) that the difficulty would be increased in some degree if political considerations came in, which they do not now. Therefore I should be disposed to say that if we are to be relieved of that which brings us into most constant collision with people outside the office, namely, the educational work, if the Parliamentary Commissioner goes on to be, as he is now, a growing success, and the means of keeping us in very close touch with Parliament, as the Committee have seen, and I need not dwell upon that point, and further (and I attach more importance to this than any other point), if the working of the Local Government Act brings us into the touch which we have so long wished for

Chairman— continued.

with localities, and enables us perhaps to understand their wishes better, and to work more closely with them, then, as I said, on a balance of advantage and disadvantage, I should prefer to suggest that we should continue to be represented as we are now. That, I say, is on the assumption that the Minister of Education is coming, and that, whether we wish it or not, a large slice of our work must inevitably and in view of the provisional nature of present arrangements, recede from us.

4050. That is all you desire to say?—I think that is all I have to say, but I forgot to ask whether I might put in those two papers about the Welsh Act; because they will explain my evidence and Mr. Acland's.

4051. Then I will ask you about another paper which I think would assist us. You spoke, as several witnesses have done, of the Board meetings, and you used the expression, "full attendance at the Board meetings"; I think it would assist us if we could have a return showing the number of Board meetings held each month from the year 1887 to 1893, inclusive, and showing for each month, besides the number of meetings held, the maximum and minimum and average attendance, without mentioning names, and excluding the attendance of the Parliamentary Commissioner, who is unpaid, and of the temporary Commissioners under the City of London Parochial Charities' Act?—If the Committee wish it.

4052. Perhaps you will confer with me as to the form in which that return shall be prepared?—Certainly.

Sir *Stafford Northcote.*

4053. There are a few points of detail that I should like to clear up. First of all, will you kindly look at Questions 193 and 204, and say whether you have had any increase of staff during the last twenty years?—Yes, we have had some increase of staff in the last 20 years. I think I can say what that increase has been. The increase in number in the last 20 years, or rather the last 19 years (I take that date because it is the date of our reorganisation under what is known as the Playfair Scheme, and it is the date which the Treasury always refer to in dealing with us), is 47 per cent., and in cost 22 per cent., and those figures illustrate the success we have had in diminishing the upper part of our clerical staff, and assigning a large part of the work to less highly-paid clerks.

4054. Will you look at the answer to Question No. 2102, and I will then ask whether you agree with Mr. Fearon as to the kind of increase needed in your staff?—Yes, I should agree with that generally. I should like to add to that, that we require an increase of staff, there, again, of second division clerks, in our legal departments, in the departments which have been before the Committee as A, B, and C.

4055. Have you formed any idea what number of additional clerks would be required?—Besides what Mr. Fearon mentioned, I think we should want three or four.

Sir *Stafford Northcote*—continued.

4056. Now with regard to your answer to Question 312, where you say, "I do not think I suggested that we should be entrusted with power to institute a general audit, but we should have powers of special audit wherever we thought it desirable," why do you prefer a special audit to a general one?—Because, as I think I said before the Committee of 1884, a general audit would involve too much centralisation; it would be more than we could undertake. There are purposes for which a special audit, and a power of surcharge and disallowance in particular questions, would be all we should require. If it were to be a general audit, I should suggest that it should be conducted locally.

4057. A question was put to you, when you were giving evidence on the 27th of April, by the honourable member for Bethnal Green. Question No. 733, with regard to an answer given in the House to the effect that 24,000 charities failed to make a return; at that time I think you were not in a position to make a full reply; that question is referred to in Mr. Thomas Ellis's examination at Questions 2811, 2812, 2924, and 2927; have you anything to add to your original answer given to Mr. Howell?—Yes, I should like to add this, that Mr. Thomas Ellis's answer was based upon a previous answer given by him upon information furnished by us, which mentioned the figure of 49,000 charities as charities producing income. I can trace with perfect ease the arithmetical process which Mr. Thomas Ellis went through in order to arrive at his answer. It was based upon a figure furnished, in the first instance, by ourselves for the purpose of a previous answer, and upon figures which he found in our reports.

4058. Do you, as Chief Charity Commissioner, accept responsibility on behalf of your colleagues for that answer given by Mr. Thomas Ellis in Parliament?—I think he put it that he was responsible for the changes made.

4059. But he gave the answer in the House of Commons on behalf of the Charity Commission?—Yes. I think the position is this: We are responsible for any answer the Parliamentary Commissioner gives so far as it conforms with that which we furnish him with. When he departs from that he does it at his own risk.

4060. But the House of Commons would have no means of knowing whether he was giving the answer on his own responsibility?—No.

4061. They would hold your department responsible?—I suppose they would, until the circumstances were known.

4062. There is a small point of detail in regard to the answer to Question 2743. Mr. Thomas Ellis there says that "as Mr. Lowther pointed out, the Fourth Commissioner has no room in the office" of the Charity Commission. Is not that a misapprehension on Mr. Thomas Ellis's part?—The story of the room is this: When Mr. Lowther was with us I do not remember whether he asked for a room or not, but if he had done so, he knew, I think, that at the time there was none for him. At the time when you became Parliamentary Commissioner the room which had been used for the work of the City of London Parochial Charities Act was set free, which you occupied.

Sir *Stafford Northcote*—continued.

occupied. When Mr. Thomas Ellis succeeded, I never suggested that he should have a room, he having one at the Treasury, and I am pretty sure he did not ask for one. I have kept one unoccupied at considerable inconvenience in order to see whether the Commissioner would use it.

Chairman.

4063. Does Mr. Stephenson use that room; does he occupy it?—No, he has not asked for it.

4064. Does he know that it is at his disposal?—I do not know whether he does or not. He seems to be quite satisfied with what he is able to do at the office with regard to the accommodation provided. I may say that the Board Room, which is a room of considerable size, is very readily available for the Parliamentary Commissioner when the Board is not sitting. All the books of reference are in that room.

Sir *Stafford Northcote.*

4064*. Then I will refer you to Questions 2746 to 2748; also I think the same point is dealt with at Question 2852. That deals with the question of the suggestion made that the Fourth Commissioner should see the schemes prior to publication; and Mr. Thomas Ellis said that the suggestion "caused considerable consternation in the office," and that "it was even promised," but "the reluctance was so great that it was never carried out." And in answer to Question 2852 he said that he was not refused the inspection of any scheme, but that he did not get what he desired to get. Do you assent to those statements of Mr. Thomas Ellis; was such a promise given and not carried out?—I do not like to set my recollection against his, but I certainly do not remember that any general promise was given. I think what was said was, that any particular scheme he wished to see of course he could see. But the state of the whole thing is this, as I think Mr. Thomas Ellis admitted in a subsequent part of his evidence, that it was no use his seeing a scheme unless he saw the whole of the file relating to the scheme; and as was pointed out in answer to another question, as to laying the schemes before the House of Commons, laying the schemes before those not acquainted with the circumstances, might often lead to considerable misapprehension; and it has been put in evidence that even if the Parliamentary Commissioner were to do that, it would put him in a totally different position from any other member of the Board. That, I think, was explained to Mr. Thomas Ellis, and though I do not say that he altogether acquiesced in it, I do not think that he did not understand the point of view.

4065. You would not admit that any promise was given by the Board, or engagement entered into, which has not been carried out?—I should not admit that; I do not think that Mr. Thomas Ellis put it very definitely in his evidence.

4066. With regard to Question 2934, the Chairman there asked a question as to the different division of the country for Endowed Schools' work and Charitable Trusts' work; is there any reason why that different division was made?—I should say the reason was because two is not the same as three. We have three Commissioners for one side of our work and two for another; and as we proceed on the principle of geographical arrangement, we divide them into three and two for different sorts of work. The geographical arrangement has been found to be convenient.

4067. At No. 3554 you dealt with the delay of eight years in the Oxford scheme; I do not know whether you have anything further to say with regard to that?—Yes, I should like to say a word about that. A scheme for Nixon's Endowment at Oxford was submitted by the Charity Commissioners to the Education Department on the 15th April, 1886. The scheme had been promoted by us and had the concurrence of the trustees of the principal charities of the City, who are a large and representative body. The only opponents of the scheme were the Freemen of the City of Oxford. On the 21st of January, 1891, that is nearly five years after the scheme was submitted, the scheme not having been approved by the Education Department, the Commissioners wrote to the department suggesting the remission of the scheme with a view to the preparation of another scheme. On the 10th of March, 1892, the department remitted the scheme to the Commissioners with a declaration that "it is desirable that the scheme be reconsidered by the Charity Commissioners." A new scheme has since been prepared, and having passed through the necessary stages, was submitted to the department on the 19th of March last; and upon that I should wish to say that so far from having delayed the scheme, it appears from that statement that, the scheme having remained at the Education Department for six years, or very nearly six years, it was the Charity Commissioners who moved in the matter and asked that a step might be taken which has apparently had the result of getting a scheme far on its way; and I will only add this, that it is, I think, notorious that the scheme was delayed simply owing to political pressure.

4068. Then I will refer you to Question 3741, and an answer given by the right honourable member for Bordesley to the Chairman, dealing especially with what I may term the "any charity" question. I merely wish to know if you assent to the answer given by the Right honourable Member to that question?—I understand the Right honourable Gentleman to suggest in that answer that we consider that the 14th Section of the Allotments Act, 1882) which I think is *verbatim* on the Notes), did not apply to Educational Charities. I think I must repudiate that construction. We have held that it applied to all charities. I cannot help thinking that the right honourable gentleman had in his mind a question which had arisen as to whether a scheme was made by the Charity Commissioners or merely framed by them for approval. We did hold, and we have the opinion of the present Attorney-General in support of the view, that that clause does not apply to schemes which are not made by the

Sir *Stafford Northcote*—continued.

Charity Commissioners; that it only applies to schemes which are actually and formally made by the Charity Commissioners. But in respect of schemes made by the Charity Commissioners, I should wish to say distinctly that we have never doubted that the clause applied to every charity, whether educational or not. The reference to Hansard for the answer of the Solicitor General, as he was then, is the 11th volume of the 4th series, page 1746.

4069. Then with regard to Question No. 3749, might I ask what the usual practice of the Commision is as to the sale of Charity Lands, under what circumstances do you sell ordinary agricultural land?—We are bound by our Acts to sell Charity Lands only on terms of advantage. Our theory is that Charity Land is not in the market, that it is a luxury, and that those who want it must pay a full price for it; but where it is shown that a sale is advantageous to the charity, from whatever reason, then we can sell.

4070. May I take it that you would not sell ordinary agricultural land merely for the sake of getting a small profit; that you would not sell it unless there is either a very large profit to be obtained for the advantage of the charity, or there are some special circumstances rendering it expedient that the land should be sold?—Yes, I should accept that, I think. Of course, those special circumstances are very varied now-a-days in the circumstances of agricultural depression.

4071. It would not be sold simply in order to get a trifle over the market value?—No.

4072. With regard to Question 3769, may I take it that your position with regard to the appointment of trustees is that you have ample powers to appoint trustees, but that there is often considerable difficulty in getting gentlemen who are willing to serve as trustees?—We have only power to appoint trustees upon a sufficient application to begin with; we cannot appoint them on our own mere motion; and where awkward questions have arisen in the administration of a scheme. There are difficulties, sometimes, in getting trustees to serve. I stated a case of that kind at full length before the Committee of 1884, and I think it is repeated in the report.

4073. Mr. Collins said in his evidence that the fact that there were some cases in which the trustees had threatened to resign was no argument in justification of the Charity Commissioners, because they have power to create other trustees. But you have no power to compel trustees to serve?—No.

4074. With regard to Question 3799, I do not know whether you have any remarks to make as to the alleged hardship inflicted on the poor by the establishment of scholarships in place of doles or other advances?—No, I have nothing to add to what I said at the outset this morning as to our general reply to the evidence given by the right honourable gentleman on that point; but I should wish, as I have the opportunity, to refer particularly on the question of scholarships and exhibitions, to the Appendix of the Report of the Committee of 1886–7, page 525, where will be found a

Sir *Stafford Northcote*—continued.

"Return from 101 secondary Endowed Schools in England and Wales governed by schemes established under the Endowed Schools Acts respecting the operation of the provisions in those schemes relating to scholarships and exhibitions"; and there will be found set out at considerable length the class in life of those who obtained the scholarships. That is a return which was mentioned by the Committee in 1886 in their report as substantiating their view that we have not injured the interests of the poor in the way suggested.

Mr. *Wickham.*

4075. I understand that the business of the two branches, the Charity Commission and the Endowed Schools Commission, is kept distinct?—Yes; they are separate departments under one Board.

4076. But there would be no practical difficulty in separating the two jurisdictions, if I may use the expression?—There would be, as I have said this morning, so far as regards the legal part of the work, but not if you draw the line between legal and educational; I should say there would be no insuperable difficulty if you draw the line between legal and educational.

Sir *Andrew Scoble.*

4077. Supposing the 50*l.* limit were got rid of, do you see any objection to adopting with regard to schemes under the Charitable Trusts Acts the same procedure that is established in regard to schemes under the Endowed Schools Acts under Section 15 of the Act of 1873, namely, that upon petition from persons having a *locus standi* on the matter, the scheme should be laid before Parliament?—No, I do not know that I do. I think it would be very much more convenient than laying every scheme before Parliament; in fact, the experience of the Endowed Schools Acts shows that it would not work. An Act was very soon passed to change the law in respect of laying schemes before Parliament. I should say that I have not considered the point, but I do not at present see any grave objection to it.

4078. Do not answer the question which I am now about to put unless you see your way to do so. Would you in such a case limit the power to apply that a scheme should be laid before Parliament, to schemes over 50*l.*, or would you apply it to all schemes?—No, I think I should not be disposed to limit the resort to Parliament. The resort to a Court of Appeal is very properly limited, I think, under the Endowed Schools Act by those considerations.

4079. But you would not put a pecuniary limit on the schemes which might be laid before Parliament?—I do not think I would, because it costs nothing to go to Parliament.

Mr. *Lawson.*

4080. I want to make clear to my own mind your plan of reform. Do you propose to turn the Endowed Schools Acts' work root and branch out of your department and transfer it to the Education Department?—Not the whole of the

Mr. *Lawson*—continued.

the work as it now stands, merely the educational part.

4081. How do you propose to separate it?—By doing as we do in the elementary schemes, subordinating all our legal work in the educational endowments to the educational considerations which prevail in the office of the Minister of Education.

4082. Then you do not propose an actual transfer of that part of your work to the Education Department; that is not what you meant?—Not altogether; because at present the Endowed Schools Department being under our roof deals with legal as well as educational questions. The line would be drawn differently from the line now drawn between our departments; it would be drawn so as to include in our office in Whitehall part of that which is now under the Endowed Schools Commissioners.

4083. But in your view the work that you would have to do would be much the same?—No, the work dealing with educational considerations is a very considerable part of the Endowed Schools Department.

4084. I mean it would cover all the cases?—It would deal with every trust, whether educational or non-educational.

4085. You do not propose to distinguish between them?—Not inside our office. For legal purposes we should deal with the same number of thousands of endowments, whatever they may be, but as regards a certain class of them we should be relieved of a very important part of the work which we now do.

4086. Would there be a saving and an economy of public money in that way?—No; there would be an economy in our vote, I have no doubt, but the burden must go over somewhere else. The Minister of Education would have to find the money for doing the educational work which must be done.

4087. I understand that you more or less allow that your office is somewhat "top-heavy"; by what number would you propose to reduce the chief officers?—In what event?

4088. I rather understand that in your examination-in-chief you admitted that that which Mr. Smith said, and which has been referred to so often, is true, that the office is somewhat "top-heavy"?—Not if we remain as we are, subject of course to the fluctuations of work. As I said, we told the Treasury that on a vacancy under certain conditions we should be prepared to acquiesce in a reduction by one. That is the best answer I can give.

4089. Two Commissioners instead of three?—Four Commissioners instead of five.

4090. You are including the Commissioners for the whole office?—Yes.

4091. Taking the Charity Commissioners only, do you think it is necessary to have three?—Yes; I do not think a less number has ever been suggested. You cannot have a board of less than three.

4092. You can have a board of one?—Not a deliberative board such as ours is.

4093. With regard to what Lord Justice Davey said, do you think it would be an advantage if, in dealing with charities not under the Endowed Schools Acts, you could do away with the doctrine of *cy-près*, and treat them in the same way as you treat those under the Endowed Schools Acts?—I have not considered that at all, because we have not power to apply the doctrine of *cy-près* fully, owing to the restraints upon our 50*l.* limit, and, as I said more than once in my first evidence, until we can work that fully I do not see why we should seek to go further.

Mr. *Lawson*—continued.

4094. You are not prepared to give any opinion on the evidence of Lord Justice Davey?—I am afraid I did not catch that particular part of his evidence.

4095. What I meant was this: In answer to Mr. Russell, he said that, supposing that all the work under your Commission were brought under the Education Department, it would be necessary to release the Minister who was responsible from the legal trammels of *cy-près*, and to give him the same power that you have under the Endowed Schools Act?—I do not think I can give an opinion upon that. That is quite a new point to me.

Mr. *Lowther.*

4096. You deal with educational trusts and apply them to public elementary education, do not you?—Yes.

4097. What happens in the event of your making a scheme dealing with public elementary education; what are, then, your relations to the Education Department?—We make the scheme in accordance with their code, with references to their code; the scheme is a very simple one, and we say that the school shall be conducted as a public elementary school. That imports into our scheme whole pages of the code.

4098. Do you have any special conference with the Education Department?—No, not generally. The whole thing is so completely formulated in the code that it is not necessary.

4099. I may put it in this way: The entire educational side of a public elementary school scheme dealing with an educational charity is derived entirely from the Education Department?—Entirely. I may give an illustration of a case before me now; it is a case of an unusually large endowment for elementary education in the south of London. The first question which arose in the matter was, whether the endowment, or rather a considerable part of the capital, ought to be spent in rebuilding an elementary school. We had considerable difficulty in arriving at a conclusion upon that point, which was a legal point; but we had some assistance from the Education Department; I saw one of the inspectors about it; however we satisfied ourselves about it. Then came the question as to the site. That is entirely a question for the Education Department. That is really an educational question, because if the site is not approved by the Education Department they will not give the grant. There we stop, and the Education Department inspector goes down and settles—that is a part of his ordinary work. What we, the Charity Commission, say, is, "You may build upon a site approved by the Education Department."

Mr. *Lowther*—continued.

4100. Putting it generally, wherever you have to deal with public elementary education you conform absolutely, and entirely to the Education Department?—Never once in my experience have we ventured even to have an opinion on a question of primary education.

4101. And you see no reason why in the future the same thing should not apply with reference to secondary education?—No; the existing practice with regard to primary education made me make the suggestion I have made.

4102. May I ask you this question: Whether in all your experience at the Charity Commission you have ever found any friction or difficulty to arise as between yourselves and the Education Department until the summer of last year?—No, I do not remember, until certain Welsh schemes became the subject of discussion, any friction. We have worked more harmoniously and with less friction and less incidental delay than I should *a priori* have conceived it possible that two departments could work. The officers of both departments are in constant touch with one another, and, as Mr. Acland said, the best possible relations exist between the two.

4103. And the whole of that difficulty, such as it was, centred round the question of the Flint scheme?—I think you may say that; and that raised questions of greater importance than I ever remember being raised in any other case.

Mr. *Egerton Allen.*

4104. I wish to speak about the Denbeghshire scheme, but I do not want to allude at all to the boarding-house religious question; I merely want to allude to the part which relates to the Ruthin Grammar School, which was cut out of the scheme by the House of Lords. Under the Welsh Act you have to decide purely as a matter of law, whether certain schools are within the purview of the Act, whether the Act is applicable to those schools?—Yes, that is one of our functions. When a proposal is sent up to us by Joint Education Committee, we must see whether the endowments proposed to be dealt with, are within the Act.

4105. I want to get it quite clear; that is a question of law, the construction of Acts?—The construction of the instrument of foundation and of the Acts together.

4106. Because the Acts, I think, define it; take the Welsh Education Act, Section 12, Subsection (2)?—I have the section before me.

4107. It defines the school and endowment to which the Act is applicable as "any school or endowment of a school, to which Section 75 of the Elementary Education Act, 1870, applies, and any endowed school to which Section 3 of the Endowed Schools Acts 1873 applies"?—That is so.

4108. And looking at that, may I say that it is a matter of construction of Acts as to whether any particular school comes within the limits of that definition?—Yes; and also of the definition in the first part of Section 12; it is all one section of definition.

4109. You, in the exercise of your judicial functions, decided that the endowments of the Ruthin Grammar School came within the limits of the definition?—Yes, we decided that by proceeding to frame the scheme, including that school, as asked by the Joint Education Committee.

Mr. *Egerton Allen*—continued.

4110. Whether you were right or wrong in that decision, an appeal lay from that decision to the Privy Council?—Yes; I think there would be an appeal on the ground that the scheme was one which was not within the scope of, or made in conformity with, the Act.

4111. And if the Privy Council decided against you, of course, the school would drop out of the scheme?—Certainly.

4112. Now, I want to ask you whether Parliament in rejecting that part of the scheme which related to the Ruthin Grammar School, did not override your judicial decision; whether it did not decide that the endowments of that school were not within the limits of the definition which would bring it within the scheme; whereas you had decided judicially that that school was within the limits which would bring it within the scheme?—The two decisions were not consistent with each other.

4113. Was it not argued throughout the debate that it was a matter entirely of judicial opinion, and one which ought to be left to the judicial appeal which was given, and not to be decided by Parliament?—The question was argued (I happened to hear it), mainly on legal grounds, I think, but of course a reference to the Debates will show that. It is not for me to express an opinion.

4114. I certainly do not wish to ask you to express an opinion which you have any hesitation in expressing, and therefore I ask my question absolutely subject to your own desire whether it shall be answered or not: I wish to ask whether you think that was a case in which Parliament did not overstep its functions by interfering in what was really a matter for a court of law; but if you would rather not answer I will not press you?—I could hardly answer a question put in that way if I might be excused. I could say that the question whether the Ruthin scheme was properly within the scope of the Act was one on which an opinion might have been obtained from the Judicial Committee.

Mr. *Jesse Collings.*

4115. Might I ask, if the trustees of a charity resign, what takes place; have the Commissioners to appoint others in their place?—No, only in this way: If there is a scheme providing for the constitution of trustees, and trustees resign, trustees must be appointed, either co-opted or elected by the representative body, as the case may be. If there is no scheme the trustees would have to apply to us to appoint trustees.

4116. I am speaking of a case, for instance, mentioned by Sir Stafford Northcote, where trustees threatened to resign if the Commissioners obliged them to put the Allotments Act in force; supposing that was carried out, supposing there were five trustees and they all resigned, what would the Commissioners have done?—If we had known of the fact, we should have written to those whose duty it was to appoint new trustees, and suggested that they should proceed

Mr. *Jesse Collings*—continued.

proceed to an appointment. We have no power to appoint.

4117. You would have got over the difficulty somehow?—We generally do somehow or other.

4118. In answer to Sir Stafford Northcote, did I understand you correctly to say that in all the schemes of the Charity Commissioners, including Endowed Schools schemes, every scheme, in fact, both under the Endowed Schools Acts and the Charitable Trusts Acts, clauses were put in giving authority to the trustees to set aside land for allotments?—No, I did not say that. I said that in all the schemes under the Charitable Trusts Acts we did do it, but not in schemes under the Endowed Schools Acts; for this reason——

4119. I only wished to understand the answer. Are you aware that the question to which Sir Stafford Northcote referred as being put by myself referred to the Charity Commissioners as a corporate body, including the Endowed Schools Commissioners?—No; I do not think I noticed that distinction.

4120. Then we understand your answer to Sir Stafford Northcote's question to be, that under the Charity Commissioners' schemes they insert the section, but not in schemes under the Endowed Schools Acts?—No, and for the reason given by Sir John Rigby in the passage I referred to.

4121. Then is your reading of the 14th Section, that "a scheme made by the Charity Commissioners after the passing of this Act in relation to any charity," does not mean any scheme made by the Charity Commissioners as a body, but only that section of the Charity Commissioners which deals with the Charitable Trusts Acts?—No; I will put it in this way.

Mr. *Lowther.*

4122. Might we have what Sir John Rigby said?—He says, "Under the Endowed Schools Acts, the Charity Commissioners do not make schemes; they may propose them to the Education Department, and the schemes so prepared are not passed by the authority of the Charity Commissioners. It has therefore been thought that such schemes are not within Section 14 of the Act of 1882, and Section 15 seems to support this view"; that is the next section.

Mr. *Jesse Collings.*

4123. There is nothing to prevent the Charity Commissioners from inserting the section in their schemes, even in that ruling?—No, I suppose not.

Mr. *Jesse Collings*—continued.

4124. And then with reference to the end of the question to which Sir Stafford Northcote referred, No. 3741, is it the fact that the Charity Commissioners have always inserted the clause named with regard even to the Charity Commissioners' schemes in the limited sense?—I believe there were some omissions at first, but I think there are some answers in Parliament with reference to that. Perhaps I may just give the reference: Volume XVI of the 4th Series of Hansard, page 1076.

4125. With reference to the answer you gave as to the number of elementary school children gaining scholarships and exhibitions, you gave a reference to a certain paper in the Report of 1886. You think that exhibitions and scholarships gained for the benefit of elementary school children are a sufficient compensation for any kind of diversion of trust which might have taken place?—Assuming that you are to divert the trust to educational purposes, I think that is the best way of doing it.

4126. You think that is sufficient compensation?—Yes.

4127. In a former part of your evidence to-day you spoke of the functions of the Charity Commissioners as being to carry out an organisation of secondary education: That the primary idea of Parliament in the appointment of the Charity Commission was, that they should organise and carry out secondary education in the country?—The Preamble of the Act of 1869, I think, indicates that.

4128. You think that was the intention?—That seems to be the intention in the Act.

4129. With regard to the *cy-près* doctrine, supposing that did not exist, is not your administration as wide and as free, under the explanations of that doctrine by the courts of law, as if the clause did not exist at all; I mean the *cy-près* doctrine clause · in other words, cannot you do, under the wide latitude given you by the courts of law, almost everything you want?—We certainly cannot do anything, or else there would have been no occasion for the Endowed Schools Acts to give us further powers.

4130. You can do anything you wish?—No. We are often pulled up by the doctrine of *cy-près*, and we have to say to trustees, "We cannot do what you wish us to do."

4131. Under the Endowed Schools Act of 1869, the 30th Section, you, with the consent of the trustees, or a majority of them, can get rid of *cy-près* altogether?—We can; and I have said in one of my answers to-day, that I am very anxious that if that power is to remain, there should be a corresponding power to divert to non-educational purposes.

Thursday, 28th June 1894.

MEMBERS PRESENT:

Mr. Egerton Allen.	Mr. John Edward Ellis.
Mr. Griffith-Boscawen.	Mr. Howell.
Mr. Donald Crawford.	Mr. Oldroyd.

MR. JOHN EDWARD ELLIS IN THE CHAIR.

Sir HENRY LONGLEY, K.C.B., re-called; and further Examined.

Mr. *Griffith-Boscawen.*

4132. IN addition to the explanation you gave with regard to the Welsh schemes, I want to ask you a question on one point; that is about the Montgomery scheme. Mr. Kekewich, in his evidence at Question 3575, seemed to think that there had been a want of consistency, because you allowed the same clause which had been objected to in the Merionethshire scheme to stand in the Montgomery scheme; is it the fact that the clause in the Montgomeryshire scheme did not contain the words specially objected to in the House of Lords?—The Montgomery scheme did not contain the words underlined in red ink, which were added at the instance of the Education Department; but it did contain with that exception the words omitted in the House of Lords; but if I may add, the honourable Member will see on referring to the printed table which I produced yesterday, that the Montgomery scheme was out of our power, and was submitted as the Flint and Denbigh and Merioneth schemes had been, long before the decision of the House of Lords on the 4th of September; and that I think is the governing fact which explains it.

4133. That is just what I was going to ask; it was out of your hands before the House of Lords could have anything to say?—Yes.

4134. Therefore there was no inconsistency in your allowing it to stand in the Montgomery scheme, while you had objected to it in the Merionethshire scheme?—We could not "allow it to stand" in that scheme; it was out of our power. That term was not applicable to our position after the decision of the House of Lords. We put it in under the same circumstances as we put that clause in originally, with great reluctance, in the Merioneth and Flint cases; and it was then out of our power.

Mr. *Oldroyd.*

4135. I think you said yesterday that it was the practice in your conduct of your business for your colleagues only to bring before the board matters connected with schemes which involved principles not covered by a former decision?—The answer to which the honourable Member refers, I think, was not confined to schemes; it referred to all questions that may come before the board. I forget the exact words I used, but I have no doubt that I did use words implying that it was undesirable to bring before the board questions which were virtually covered by a previous decision of the board.

Mr. *Oldroyd*—continued.

4136. Does not that method of procedure tend to diminish the amount of controversial details, seeing that in the lapse of time almost all possible principles are covered by decisions?—One would naturally think so *a priori*, but our minute book, I think, shows the contrary. The circumstances of the cases that come before us are continually new, presenting new problems. We are very particular indeed, I think, in taking care that we do not discuss a case involving the same point twice over.

4137. In your opinion it has not been found that your work is diminished by that method of procedure?—No, I think not.

Mr. *Howell.*

4138. In your evidence yesterday you suggested (I think that would be the correct expression) that power should be given to trustees to apply doles, and so on, to other purposes; you made no qualification there; did you mean that they of their own volition should do it, or under the control and with the consent of the Charity Commission?—No, I went so far as this (if I may amplify my answer), to propose that where the income of a charity is applicable, or so far as it may be applicable, to gifts in money or in kind, there the trustees should be empowered in the exercise of their discretion (only empowered) to give it in improved eleemosynary methods. I used the word "eleemosynary" as distinct from "educational."

4139. Without any control from the central body, the Charity Commissioners?—Yes, I think one might go as far as that, assuming that Parliament were prepared to recognise the principle of such a variation of the trusts. May I add this, that of course bodies of trustees of parochial charities in the future will be different from what trustees of parochial charities have been in the past.

4140. You also, I think, said that power should be given to trustees with regard to endowments for free education to apply the money to other purposes?—To other educational purposes.

Mr. *Howell*—continued.

purposes. That is quite a different matter from the former.

4141. But then here again do you suggest that that should be done with or without the assent?—I made the same suggestion in principle.

4142. Now, you may remember in the evidence given by Mr. Fearon he was asked a question with regard to the consolidation of the numerous Acts applying to charitable trusts and endowed schools, and on being asked whether he did not think that it was very desirable to have them consolidated, Mr. Fearon said, yes, he thought it would be; do you entertain the same opinion, that it would be desirable to consolidate these Acts?—I think consolidation is very greatly to be desired, and I have ventured to take what may be considered, perhaps, a step in that direction by putting in a Paper which I am afraid the Committee have not yet seen, because it is still undergoing revision; a Paper containing the Charitable Trusts Acts analytically arranged; that is to say, arranged not in order of the sections as they were passed, but combining under the various heads of an earlier paper which I put in, the sections which give us powers under those heads; and that is a proof of my opinion of the desirability of doing something in the way of consolidation. Perhaps you would like to look at it (*handing the Paper to Mr. Howell*).

4143. I would like to ask whether the Charity Commissioners have ever suggested consolidation of the Acts?—No; I think I can say so confidently, because on every occasion on which amendments of the Charitable Trusts Acts have been contemplated by the Government of the day, I have had the matter in my own charge, and I have, I may say, avoided the suggestion of consolidation, because I feared that it would interfere with that which the Government of the day then mainly wished, namely an increase of powers. At the same time I have always thought it a most desirable object. I have always kept it in view.

4144. Are you not aware that of recent years particularly the idea has been to consolidate the law by one Bill and amend it by another, so that the Consolidation Bill should go through whether the amending Bill passed or not?—I am afraid I do not know enough of Parliamentary practice to answer that question. I should be very glad to think that practice had taken the direction which would enable us to get a Consolidation Act.

4145. Now just for a moment I wish to return to the question of accounts on which you gave us some interpretation yesterday. You are aware of the questions put by me to Mr. Thomas Ellis, and his replies, Questions 2810, 2816, and also 2927?—I am fully aware of those questions and answers.

4146. In the 41st Report, that is the last Report, paragraph 14, you state that there are some 60,000 charities; of these only 31,325 made returns in the year 1893, leaving 28,675 which sent in no return, omitting thereby to fulfil their statutory obligations in regard to sending in the accounts. Could you give any further explanation with regard to that?—The only explanation which I am in a position to give is what is derived from the Paper now in the hands of honourable Members, which had not come yesterday, No. 11. I have not had time to work out the percentages; but I think it shows that the income producing charities in those three counties, I am taking the two bottom figures at the left hand of the last page, were 3,846 against 4,626 charities altogether. We have never gone thoroughly into the charities of any county as we have now gone into the charities of these three counties, Somerset, Sussex, and the West Riding of Yorkshire.

Chairman.

4147. You think they are typical counties?—Yes, I think they are.

Mr. *Howell.*

4148. Mr. Thomas Ellis made a deduction himself as to the percentage; what percentage would you put it at to be deducted from the number who do not send in their accounts, that are not required to send in their accounts; that is to say, what proportion ought to send in their accounts that do not?—In one minute I shall be able to furnish an answer to that.

4149. Still, in any case that would leave a very large number?—A considerable number; I do not wish to deny that; but we have taken these three counties, and now the number of charities which have failed to render their account within the five years is only 11 per cent., and in value only 4 per cent.

Chairman.

4150. What is the percentage that you mention now?—The first percentage I mention is the figure at the bottom of column No. 4, which is 11·1 per cent., and that is the percentage which the number of defaulting charieties bears to the number of charities producing income, and therefore liable to render annual accounts; but when we come to look at the amount of income of the charities, we find that the income of the defaulting charities is only 4·2 per cent. of the income of the total number of charities liable to render accounts. Those are the two last figures in the bottom line of the Paper No. 11. It comes to this, that 95·8 of the total income is accounted for.

4151. I understand you have suggested that the 15 per cent. taken by Mr. Thomas Ellis has been found, by further investigation, to be somewhat too small; what percentage do you suggest?—You shall have that in one moment.

Mr. *Howell.*

4152. I should like to put a question in reference to the percentage; the proportion of accounts sent in as against the proportion not sent in in numbers. The legal obligation does not take into account the income, but imposes the responsibility upon the trustees of the charity to furnish accounts, whatever the income may be?—As long as there is income. There is no liability if there is no income. If the income is 5*s.* they must render an account of it.

4153. So that in reality we should not take into

Mr. *Howell*—continued.

into account the 4·2 per cent., but the 11·1?—Yes. I only speak of 4·2 per cent. as showing that the significance of the failure is not so great as might be expected; and also to support the assertion which we have made, that it is the very small charities that are defaulters. They have not paid clerks; the trustees are often illiterate as to the means of keeping and rendering accounts. Perhaps I may add here a suggestion made by one of our officers that it would be an exceedingly good thing if some arrangement could be made by which some official in each parish should be charged with the duty of keeping the accounts of each charity. The village schoolmaster, if he had a very small fee, would probably soon put an end to all this trouble.

4154. You seemed to suggest in one of your answers yesterday that the number of defaulting charities was not the same year by year; that some sent in a return once in two or three years, as the case be, and others at other intervals, so that there would have to be a deduction made of the number who did not send in their returns for a period of four or five continuous years; that is to say, some would send in their accounts one year who did not send them in another year, so that it would not be a continuous number of defaulting charities?—No, the number of defaulting charities in each year would probably be more; I took the period of five years because the honourable Member's Return for London was for five years.

Chairman.

4155. What is the percentage that you would name?—The percentage of deduction would be 16·8 per cent.

4156. To what area does that 16·8 per cent. apply?—The three counties.

4157. Not the whole area?—No; I can only judge from these three counties; but in those counties the difference between the total charities, the income-producing charities, is 16·8 per cent on the former numbers.

4158. My question whether they were typical counties was put for the purpose of enabling you to indicate if you thought a similar percentage should be applied all over?—I see no reason whatever to doubt it. These non-income-producing charities are very largely public elementary schools, and they are to be found everywhere.

4159. You think therefore that 17 per cent. would be nearer the mark than 15 per cent.?—If I were asked for a round figure, I should say 17 per cent., and I should be very much surprised to find that it was not borne out.

Mr. *Crawford.*

4160. With regard to a suggestion made in answer to the honourable Member next me, Mr. Howell, would not the clerk of the parish council be a still better man to keep the accounts than the schoolmaster?—I quite agree, but he is in the future; and I should say that I anticipate a very great improvement in all these matters of keeping accounts as soon as the parish councils get to work. The village schoolmaster has been suggested, because we have such a dearth of public officials at present, and that dearth has been a great obstruction to our work.

Mr. *Crawford*—continued.

4161. There was one answer that you gave at the close of your examination yesterday which I should like you to explain, if you will, a little further; I thought you said that part of the legal work of the Charity Commissioners was done by the Endowed Schools Commissioners, that is to say, by that side of your office; I suppose that is so?—Yes, I think that is so.

4162. Would you explain to what extent and in what way?—The drafting of the schemes is part of the legal work. They have to consider all sorts of legal and quasi-legal questions about endowments before they can settle whether they ought to go into their schemes or not; and various questions have to be considered very often under the Endowed Schools Acts as to the nature of endowments.

4163. I do not know whether it is quite right to ask you whether you agree with all Lord Justice Davey's evidence; did you hear his evidence yesterday?—Yes, I heard almost all of it. I think just the last few answers about his representing us before the Court I did not quite catch.

4164. Perhaps you were here when he said that he thought it was quite right and indeed essential that there should be a Parliamentary review of the endowed schools side of your work, because their discretion was so wide and it was not legal, whereas that would be inappropriate to the work on the Charity Commission side, because it was legal, and they had to act according to law. But is it not the case that there is a large amount of legal work on the endowed schools side also?—There is legal work which is done in our Endowed Schools Department, but I am afraid I did not catch that answer of Lord Justice Davey; I did not understand it. I have been hoping to do so when I see it in print.

Chairman.

4165. You remember that answer?—I do not think I do.

Mr. *Crawford.*

4166. Excuse me putting it, because it is rather an important matter?—I confess I did not follow it, and one of my colleagues, in conversation told me that he did not.

4167. I understand that you suggest that in the event of the appointment of a Minister of Education it would be probably expedient to put the educational part of the Charity Commission's work under his control, reserving the legal part still for the Charity Commission?—Yes.

4168. Well, how would it work out; if an application for a scheme were made, for instance, would it entail the applicants communicating with the two departments?—No, because these schemes are not made upon application at all. The initiative is with us, and it is an educational initiative, and the initiative would come from the Minister of Education unless the initiative were given, as in Wales, to the local authorities.

4169. I am ignorant of the procedure; but is there not a good deal of communication at present

Mr. *Crawford*—continued.

present between you and the local authorities?—A good deal.

4170. If the new system were adopted, would they not have communications with both departments?—Yes, I suppose they would just as they have at present in the case of primary education wherever there is an endowment; but I do not think that our experience is that that leads to difficulties.

4171. In the case of primary education I understood you to say that you accepted the Code *en bloc*, and accordingly that relieved you from the detailed consideration to a large extent of schemes in elementary schools?—I think so.

4172. But then I understand there are other topics on which there would be communication between the Department and the Charity Commission?—As regards educational topics, as to what the grade of school would be, and as to fees, we, in the case supposed, would have nothing to do; the views of the local people would be intimated to the Education Department. If we wanted to know any particulars about endowments and the extent of the endowments (if the accounts had not been properly sent in, we might be in some doubt as to their extent), or if we were in want of other information as to the foundation, we should have to get it from the local authorities.

4173. As a matter of fact where a scheme of that kind deals with a matter educational I would ask you this question in the first place: Is there much communication between the local people and both departments; and the second question is, does it entail much communication between the departments themselves?—As to the first question, of course we are not very well aware what communication the local authorities have with the Education Department; but it is a matter perhaps of general knowledge that the Education Department have inspectors in every part of the country, and I take it that the educational considerations are dealt with by the inspectors and by the Department on purely formal lines. As regards communication between the two departments, I think the schemes are so very simple in 99 cases out of 100 that there is no need for communication.

4174. Then if an analogous system were extended to higher education where there is so much variety of schemes, might it not necessitate a great deal of communication between you and the Education Department?—I think at first it probably would, but I think the experience in primary education shows that before long such a department as the Minister of Education's Department would be, equipped as it certainly would be, would formulate their principles to a very great extent, not quite so rigidly as is done in the case of the Primary Education Code, but still in such a manner as to obviate a good deal of the difficulty which perhaps might arise, and probably would arise, at first.

4175. Without referring to any particular questions by number, I suppose you have noticed that very strong evidence has been given to the Committee against separating the legal and educational work of the Commission?—Yes, there is some evidence to that effect.

Mr. *Crawford*—continued.

4176. But you do not think it is so strong as the considerations in favour of doing that?—No, and a good deal of the evidence that you refer to was, if I may say so, it appears to me, pointed to that division which was established by the separation effected by the simultaneous existence of the Endowed Schools Commission and the Charity Commission, and I fully go with all that the witnesses have said as to the difficulties and inexpediency of that separation. My proposal was to draw the line in a different place.

4177. I quite see that there is a very great distinction there, but then did you explain why the objection is greater in the one case than in the other?—I think I quoted the words yesterday, in which Mr. Fearon put it in one of his answers, and I think I cannot put it better. Because under the arrangement to which I referred there were two Charity Commissions, both dealing with legal questions relating to endowments; and that seems to me a waste of power and contrary to the true principles of division of labour.

4178. In that case you consider that there were two authorities dealing with the same matter, whereas according to your division the subject matter dealt with would be entirely different?—Yes I have it on my notes here in this way: The advantage would be to keep the legal work in the hands of those who have wide experience in dealing with that side of educational endowments which is common to all charities; that is the way I have thought of putting it.

4179. May I ask (because it is a matter of importance, and your authority on the subject is so high) if this plan has recently occurred to you, because you did not mention it in your first examination?—I was asked no question on the subject. I may say that that which is at the bottom of it all has been in my mind for a very long time, that is to say the provisional nature of our present endowed schools work. For more than 10 years I have taken that view of it, and the view which I have now put before the Committee is simply the result of thinking it out. I really do not know when it first occurred to me, but I believe it was before I gave my first evidence; I began to think over the thing more seriously in view of the appointment of this Committee. It has come gradually upon my mind, but it is based upon that consideration which I have mentioned.

Chairman.

4180. It was merely, I gathered, your individual opinion; you did not wish to bind the Board, is that so?—Certainly, I am in no position to bind anybody. I have talked over the matter with others, but I have no authority to bind anybody.

4181. I think you wish to add something to your answer to Question No. 193?—Yes, it is a small matter; in my answer to No. 193 I gave a rough estimate of the increase of our work under the Charitable Trusts Acts; but yesterday the honourable Baronet (Sir Stafford Northcote) asked me some precise questions, and I should like to supplement the answers I gave yesterday and

Chairman—continued.

put on a more definite footing, by some figures, the information which I gave in my answer to 193. I told the honourable Baronet that the increase in the 12 years 1881 to 1893 of our staff was 23 per cent. in number and 15 per cent. in cost; but I omitted to say that during the same period the increase of work was indicated by the following figures. The increase in the number of letters was 40 per cent. incoming and 39 per cent. outgoing. The orders had increased 38 per cent., and the amount of stock held by the official trustee had increased by 53 per cent., and the number of accounts into which it was divided had increased by 54 per cent. And then the honourable Baronet asked me about figures extending for 20 years, and in my answer I said I should prefer to give them for 19 years, for a reason which I mentioned then; and those figures I have here, and perhaps I might be allowed to give them now. The increase of work between 1875 and 1893 was: incoming letters, 70 per cent., outgoing letters, 91 per cent., and orders, 62 per cent.; during the same period the increase in the numbers of our staff was 47 per cent., and the increase of cost of staff only 22 per cent. These figures relate to our staff working under the permanent Charitable Trusts Acts.

4182. Is that all you desire to say?—Yes.

4183. Now, if you please, will you turn to a matter which I think it is very desirable should be cleared up finally. I will ask you to be kind enough to explain a little further with regard to the figures given in the House of Commons by Mr. Thomas Ellis, alluded to in his answer to Question 2811?—I have been under a misapprehension, I am afraid. I was under the impression (which I think I gathered from Mr. Thomas Ellis's answer to Q. 2811, that his answer to the question put to him in the House of Commons on the 18th of February last, was based on a deduction of 15 per cent. from the total number of Charities in the country. But in a later part of his answer to Q. 2812, Mr. T. Ellis disclaims such a percentage as the basis of his answer. At that time there was no total number of Charities before Mr. T. Ellis to which such a percentage could be applied, for the figure of 60,000 Charities to which he refers in that answer, was mentioned for the first time in the Annual Report for 1893, which was not issued until some weeks after the date of the answer in question.

4184. They were accurate, then?—Yes, nearly so.

4185. Then we may take it that Mr. Thomas Ellis did give an accurate figure?—Yes; I never denied that he gave an accurate figure from the figures before him. My doubt was whether he had been furnished with the proper figures.

4186. Does that doubt exist now in your mind?—No, not now that I have seen this Paper which is now before me. I never mastered that Paper before Mr. T. Ellis's answer was really based on the figure 49,700 mentioned by him in an answer given in the House of Commons to a question on the 13th of November 1893, as the total number of income producing Charities.

Chairman—continued.

That figure was furnished from our office, and was based, not on a deduction of a percentage in respect of Charities not producing income, but upon an estimate of the total number of income-producing Charities in the country arrived at by a comparison of the information contained in the General Digests of Charities presented to Parliament for each county in England and Wales between 1866 and 1876, with the information contained in certain Supplemental Digests recently presented to Parliament for some of the English counties. But if the result thus obtained be applied to the total of 60,000 Charities subsequently mentioned in paragraph 14 of our 41st Report (for 1893), it shows that an allowance of 17·1 per cent. should be made for Charities not productive of income. The Paper (No. 11) giving the results of an examination of the Charities in three selected counties show that there a similar deduction of 16·8 is to be made.

4187. The figure is cleared up?—Yes.

4188. The answer given in the House of Commons is correct?—Yes, as nearly as is possible in dealing with figures which represent estimates.

4189. Now, with respect to this very important matter, the scheme that you put before us. You have rather based the probable success of that upon the illustration you gave, that with regard to elementary education endowments the same thing now takes place; can you give us some indication of how many elementary education endowments you deal with at the present time; what proportion of your work does that form?—A considerable proportion, I should say, as regards items, but not very large as regards money.

4190. How many do you suppose you deal with in a year?—I am afraid I could not tell at all.

4191. Or how many in a week?—No.

4192. Or a month?—I am afraid I could not tell at all.

4193. You have no conception?—No, I have no conception at all. We do not keep any accounts which separate primary from secondary trusts.

4194. You see if you base what I may call a reconstitution or reorganisation of the Charity Commission upon what now takes place with regard to elementary education endowments, it would be a great advantage to us if we could know a little more particularly what proportion of your work it forms. If a new departure is to be based upon something that now happens to any extent, we should wish to have an idea what proportion that work is of the whole?—It is not a very large proportion in importance of our educational work, but it is very far reaching, because I should include among such cases the cases in which we devote money to the payment of prizes and scholarships in, and exhibitions from, public elementary schools, because there we continually refer to the Code.

4195. I want something a little more definite than that; now here in Paper No. 7 of the Appendix we were given, as far as figures can give

Chairman—continued.

give it, an idea of the work performed by the Charity Commission during a period of 10 years, and the first line is "Schemes"; can you give us the figures for those schemes that we are now speaking of?—I could have the number of those schemes that deal with elementary education taken out for you.

4196. You cannot carry it in your mind?—I have not the least idea; they are mixed up with schemes for all sorts of things, but a very considerable number not merely of schemes but other items of business are concerned with primary education.

4197. Then passing to the actual operation of such an arrangement, I understand that you really suggest to us that there would be no difficulty in the matter?—No, I would not say that.

4198. Would there be some difficulty in so separating the legal and educational aspects of the work?—There is always a difficulty in separating work which hitherto has gone together, but on the balance of advantage and disadvantage I think it would be a less difficulty to separate.

4199. Supposing such a proposal were carried out would you give us the practical working out which would take place under such a system?—It depends a great deal on whom any scheme was to be started by. I suppose we must assume that it would be started by the Minister of Education.

4200. You have worked out your proposal in your mind; will you give us the advantage of that?—I am afraid I have not worked it out very fully, because the constitution of the Minister of Education is so very much in the air; but supposing that the Minister of Education were to consider, looking round a county, that there should be schemes for two or three endowments to bring them into line with some county organization, he would form some idea of the educational requirements, and would then send to us, as we do now to our drafting department, to put the scheme in legal shape for him, so that he should not be running up against legal questions. We should be his legal advisers in the matter, I think, as well as his draftsmen.

4201. I understand that, according to your suggestion, the "legal advice" would not be in the form of advice, but you would be supreme in the legal part of the work?—The Minister of Education need not go on with the scheme unless he liked.

4202. That is, I believe, the case where there is a legal adviser; but you would be supreme in the legal part?—Yes, I suppose so, that is to say subject to an appeal; we should be set right if we were wrong.

4203. As far as the Education Minister was concerned, you would not be his legal advisers but his legal masters?—I should repudiate the word "masters." I do not think it represents the situation.

4204. Can you supply another word which does?—I think we should give him the information he wanted.

4205. But he could not accept or reject what you gave?—He would be bound by the law.

4206. In that sense you would be his masters? We should be his masters in the sense that law is the master.

Mr. *Griffith-Boscawen.*

4207. Would you not be his legal advisers precisely as the legal adviser of any Government Department is so?—I think we should. The head of a Government Department, I suppose, can act independently of his legal adviser if he chooses at his own risk.

Chairman.

4208. I do not understand that this proposal of yours is for a division of that kind at all. I am asking purely for information, because this is a very important matter. We have come to the end of our inquiry and I want you to let us have all that is in your mind on the subject. It is not a case of your being legal advisers in the same way as the legal adviser to the War Office or to the Admiralty or to any of the great departments, as we understand the matter in the House of Commons. As I understand you to put it, it is the case of a department being supreme and not responsible to the Minister for what is tendered to him; is that so or is it not?—I do not see that there would be any distinction between our position and that of the legal adviser of the War Office, or the legal adviser of the Admiralty. They are bound to give the Minister the best legal advice, and we should be bound to give the Minister of Education the best legal advice.

4209. The legal advisers of the War Office are included in the War Office Vote, the establishment of the War Office?—Yes, but they are put there to be, to that extent, to use your own phrase, the masters of the Minister.

4210. That is certainly not the way that we understood it in the House of Commons. Then may I gather that it would meet the requirements of this proposal of yours if the Charity Commission were put precisely in the same relation to the Minister of Education as regards the legal part of the educational endowments as the legal advisers in other Government Departments?—As regards this particular proposal, I should strongly deprecate the Charity Commission being placed in that situation.

4211. It would not meet the requirements of this proposal if you were placed in the same position as the War Office legal adviser or the Admiralty legal adviser?—No, it would not fit in with my proposal, because the essence of it is that the charitable trusts work should not be separated, and to put us as regards charitable trusts in the position of being directly under the Minister of Education would break up the system I suggest.

4212. There I agree with you; that is one of the difficulties in my mind. Would you suggest that the Minister of Education should pass a scheme and that then it should come to you, and then you should remit it to him with your legal criticisms; and then would there be further consultation between the departments?—I should think so, as there is now frequently upon schemes.

4213. There would be consultations on two parts of the one scheme; one would be dealt with on one side of Whitehall and one on the other?—Yes.

4214. And there would be running backwards and

Chairman—continued.

and forwards on some small scheme between the two departments ?—I do not think there would be, judging from the experience of the primary education work. I think the two departments understand each other as regards that. I know it seems difficult to conceive it if one were not actually doing it.

4215. You think, in fact, that the difficulty is soluble ?—I do, indeed.

4216. Take a case in which the Education Department did not start the scheme but the Charity Commission started the scheme ?—Starting a scheme is an educational process.

Chairman—continued.

4217. Then we have it that under your proposal the initiative would always lie with the Education Department ?—I should think so. I confess I have not thought it out. It is a very intricate matter and I have not thought the details out.

4218. You admit that it is an intricate matter ?—Yes, to work out this proposal. I am sure a Minister of Education will never be established without the working out of a great many intricate matters.

4219. Is there anything else you would like to say ?—No, I think not.

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APPENDIX, No. 1.

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EXTRACT from 29th Report of Charity Commissioners (for 1881). Appendix A.

MEMORANDUM on the Origin and Scope of the Relations between the Charity Commission and Trustees of Charities.

1. A "CHARITY," in the wider and technical sense in which the word is known to the law, and in which it is used in legislation, is constituted by any legitimate dedication of property upon a trust, whether express or implied, capable of permanent duration for the benefit, whether they be rich or poor, of the public, or a class of the public, as distinct from individuals. Thus, a trust for the repair of a Bridge, for the support of a Museum, in aid of Poor Rates, or for the augmentation of the stipend of a Minister, constitutes a "Charity," with the privilege of perpetual continuance, equally with a trust for the distribution of money or clothing to the poor.

2. Over Charitable Trusts or "Charities" thus defined the State in this country has, from the earliest times, extended a special care beyond that to which private trusts have been subject.

3. The origin of this special care is technically attributed to the necessities of the unprotected position in which Charities, as well as certain classes of persons, such as Infants and Lunatics, are found by the law, which is said to consider them as "*inopes consilii*."

4. In the case of Charities the exercise of this care may be accounted for by (*a*) the unique condition of permanence which they enjoy, and which exposes them to vicissitudes which cannot be foreseen by their founders; and (*b*) the absence of the stimulus to their due administration, which is supplied by private interest in the case of other trusts.

5. The form which the relations between Charities and the State have thus assumed is that Charitable Trusts enjoy special privileges, notably that of permanent duration, and a special protection, which are withheld from private trusts; and that they are subject to a corresponding liability to control, from which private trusts are exempt.

6. The sole object recognised as that to which this special regard for Charities points is the promotion, in the words of the earliest statute on this subject,* "of the 'charitable intent of the givers and founders of Charities." It has consequently assumed, with that object, the double aspect of *protection* of the property of Charities, and *control* over the persons administering that property.

7. It is in this sense only that any system of control over Charities has ever been, and is now, exercised by the State. And it is with this main object of the promotion of the intentions of the founder in view that the State has provided for the adaptation of the administration of Charities to the changes of their circumstances, which inevitably occur from time to time, by methods conforming as nearly as may be (*cy-près*) to the intentions of their founders.

8. Subject to this exception, if such it can be called, any direct interference with the intentions of the founder of a Charity, or any variation of the trusts of the foundation, are matters wholly foreign to any such system of control, and have, therefore, been always the subject of exceptional legislation.

9. The protection thus systematically afforded to Charities has been exercised through varying agencies, but always with the uniform object of securing the permanent efficiency of the Charity, and so of giving effect to its founder's intentions. Of these agencies, the oldest, and, until recent times, that most frequently resorted to, is that of the Courts of Equity.

10. Since the year 1853 the Charity Commission has, by degrees, been associated with, and in large measure substituted for, Courts of Equity, as the agent of the exercise of this protective and remedial jurisdiction of the State over Charities. The limits of that jurisdiction are traced by the decisions and practice of Courts of Equity for upwards of 300 years.

11. It had thus been established, previously to the creation of the Charity Commission, that—

(*a*.) Charities are entitled to special facilities of access to Courts of Equity through the medium of the Attorney General and otherwise;

(*b*.) No dealings with the *corpus* of Charity property could safely, and therefore advantageously, be made without the approval of the Court;

(*c*.) No steps could be taken to facilitate the improved administration of Charities, other than those which might have been expressly prescribed by the founder, except by or with the sanction of the Court.

12. In

* 43 Eliz. c. 4.

12. In the early part of the present century it became notorious that the protection which this system was intended to afford had not been secured by it. The expense and delay of the litigious procedure incident to a recourse to the Court in order to procure this protection, and the opportunity which it afforded for the institution and continuance of litigation for purposes of private advantage, at the cost of the Charities, were found to be such as to make the remedy worse than the disease.

13. The application of this protection was irregular and intermittent, and the judicial nature of the system by which it was applied rendered it incapable of adaptation with sufficient flexibility to the requirements of individual cases.

14. In the case of most Charities the protection of the State was, therefore, in practice, dispensed with, and Charity property was exposed to fraud, depredation, and neglect. In the comparatively few cases in which recourse was had to the Court the Charities were paralysed by the heavy costs of litigation, and the remedy, when obtained after many years of delay, was often of temporary and uncertain efficacy.

15. Between the years 1818 and 1850 several prolonged and searching investigations were made into the condition of Charities, by the following authorities :—

(*a.*) A Parliamentary Commission of Inquiry, which sat from 1818 to 1837, known as Lord Brougham's Commission, and which reported at length on the whole of the Charities of the country, then found to be upwards of 28,000 in number. The Reports of this Commission, extending to 38 folio volumes, form the basis of all authentic information as to Charitable Trusts.

(*b.*) A Select Committee of the House of Commons, which was appointed in 1835 to examine the Reports of the above-mentioned Commission, so far as they were then published. Among the Members of this Committee were Lord John Russell, Sir Robert Peel, Lord (then Sir J.) Campbell, Lord Cranworth (then Sir R. Rolfe), and Sir W. Follett.*

(*c.*) A Royal Commission, appointed in 1849 to examine the then completed Reports of the Commission of 1818. Of this Committee the present Earl of Chichester was Chairman. Its first Report was made in 1850.

16. The Reports made by these three bodies recommended that the duty of exercising the then existing system of protection over Charities, hitherto inadequately discharged by Courts of Equity, should be transferred to a permanent and independent administrative authority, which should differ from the Court, not in the scope of its powers, but in the continuity and vigilance of their exercise.

17. These several Reports indicated specifically those of the powers, up to that time exercised solely by Courts of Equity, which it was considered should be conferred upon the authority thus proposed to be established, with the object of securing the improved administration of all Charities without distinction.†

18. These powers may be thus summarised :—

(*a.*) To inquire into the administration of Charities.

(*b.*) To compel the production of, and, when produced, to audit, the accounts of the expenditure of Charity funds.

(*c.*) To facilitate the administration of Charities, both as to the development of property, and as to the direct execution of the trusts, by supplementing the powers of Trustees when defective.

(*d.*) To secure the safe custody and due investment of the property of Charities.

(*e.*) To give ready and effectual expression to the doctrine of *cy-près*, as administered by Courts of Equity, by framing Schemes for adapting the administration of Charities to the altered circumstances, whether of the Charity property, of the locality, or of society generally.

(*f.*) To control, to facilitate, and to diminish the cost of legal proceedings taken on behalf of Charities.

19. The principles thus laid down by the highest authority, and in the result of an investigation of unparalleled duration and minuteness, have never been disputed. They have formed the basis of the series of Charitable Trusts Acts, extended from 1853 to 1869,‡ the earliest of which was the direct consequence of the Report of the Royal Commission of 1849, by whom it was originally prepared.

20. By the Charitable Trusts Acts the permanent authority prescribed above was created, in the shape of the Charity Commission. To this Commission all the powers enumerated above, with the single exception of that of audit, have, by successive steps in legislation, been entrusted in some degree or other, and subject in some cases to certain restrictions.

21. No powers beyond those exercised by Courts of Equity for the protection of Charities have been conferred upon the Charity Commission by the Charitable Trusts Acts, with a single exception to be mentioned hereafter; while those Courts still exercise powers in that behalf, mainly those which concern questions of title, beyond those mentioned above, which they now exercise concurrently with the Charity Commission.

22. The general powers of the Commission are, therefore, strictly within, and are in no respect whatever beyond, the scope of those exercised from the earliest times by Courts of Equity. And, particularly, their powers of dealing with trusts are expressly limited, as are those of the Courts, by the equitable doctrine of *cy-près*. Neither the one authority nor the other possesses the power of directing an absolute variation of the general object of a Charitable Trust.

23. The powers thus vested in the Charity Commission are essentially remedial and protective. They are designed to effect two object, and two objects only :—

(*a.*) To supplement the means provided by founders for giving effect to their intentions, where those means are inadequate to give full effect to the purpose of the foundations.

(*b.*) To protect the property of Charities against waste and loss, and so to preserve it for the purposes to which it has been dedicated by the founders.§

24. The

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* The recommendations embodied in the Report of this Committee are stated at length in the Note at the end of this Memorandum.

† [A statement showing the mode in which, and the extent to which, effect has been given by the Charitable Trusts Acts to the several recommendations of these Reports will be found in Appendix to the Report of the Select Committee of the House of Commons, appointed in 1884 to inquire into the working of the Charitable Trusts Acts. 1893.]

‡ 16 & 17 Vict. c. 137, Charitable Trusts Act, 1853; 18 & 19 Vict. c. 124, Charitable Trusts Act, 1855; 23 & 24 Vict. c. 136, Charitable Trusts Act, 1860; 32 & 33 Vict. c. 110, Charitable Trusts Act, 1869.

§ [As to this point, *see* now the Charitable Trusts (Recovery) Act, 1891. (54 Vict. c. 17.) 1893.]

24. The need of the exercise of authority external to Charities themselves, and therefore by the State, in order to secure those ends, has been recognised for the last 300 years. The inadequacy of the jurisdiction of Courts of Equity to supply this need was demonstrated by the Reports of 1835, 1837, and 1850.

25. The original jurisdiction thus transmitted to, but not created for, the Charity Commission is exercised under the provisions of the Charitable Trusts Acts in various modes ; all, however, falling within the enumeration of powers given above.

26. The exercise of the several powers, (*a*) of inquiry, (*b*) of procuring the production of accounts, (*e*) of establishing Schemes, (*f*) of controlling and facilitating legal proceedings, require no further explanation.

27. The two remaining classes of powers, however, are in practice applied by the Charitable Trusts Acts to several distinct objects.

(*c.*) The power of supplementing the action of Trustees is directed to—

(1.) Dealings with the *corpus* of real, or the capital of personal, estate.

(2.) The authorisation of acts of the trustees in the administration of income, for which the terms of their Trust afford no warrant.

(3.) The appointment and removal of Trustees and officers.

d.) Again, the power of securing the custody and investment of the property of Charities is similarly exercised by means of—

(1.) The constitution of Official Trustees with a perpetual succession.

(2.) Powers of vesting real and personal estate without conveyance.

(3.) Provisions for the custody of deeds and muniments of Charities.

28. The exercise, whether by the Court or the Commissioners, of the jurisdiction thus defined has been from time to time resented by Trustees of Charities as antagonistic to their interests, and as restrictive of the powers entrusted to them.

29. This view of the relations between the State and the Trustees seems to be due to a failure to recognise either the purely remedial and protective character of this jurisdiction, or the true position of the Trustees, who have been concisely described, on the high authority of Lord Lyndhurst,* as "public officers invested with public "powers and public duties."

30. The central regulating authority, whatever it be, is specially charged, as the protector of Charities, with the maintenance of that permanent character which is their distinctive feature. It is only where Trustees, being more immediately and fitly concerned with the present administration of a Charity, may be disposed to overlook its more remote and permanent interests, or where they deviate from the terms of their Trust, that any real antagonism exists between the two authorities.

31. The central authority, in the discharge of the duty which is unquestionably imposed upon it, must decide how far the interests which it has to guard are served by the course of administration pursued by the Trustees, and in so doing can recognise no interests other than, or at variance with, those of the foundation itself.

32. The principle thus stated underlies all the relations between the Charity Commission and Trustees of Charities, and it is that which governs the distinction which may be drawn between the functions of the two bodies.

33. The Trustees are the sole and responsible administrators of the income of the Charity within the limits prescribed by the founder. They have no power, however, to deal with capital, nor, as has recently been laid down with much emphasis by the Court of Appeal in the case of the Campden Charities† at Kensington, to vary in the slightest degree the prescribed mode of application of income.

34. The Charity Commissioners, on the other hand, are in no sense administrators of income. The constitution and maintenance of an efficient body of administering Trustees is as necessary to the discharge of their functions as it is to the due execution of the founder's intentions. But they are constituted the judges of all dealings with capital, as well as of all variation of the prescribed mode of giving effect to the objects of the Charity.

* * * * * ‡

41. The misapprehension§ which commonly prevails as to both the present [and proposed] powers of the Charity Commissioners, is, no doubt, due in a great measure to the fact that the systematic application by a permanent authority, specially charged with that duty, of the powers formerly exercised intermittently by Courts of Equity has led, not unnaturally, to the belief that it is not merely the medium of their exercise, but the powers themselves which are new.

42. The

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* Hansard, Parl. Deb., Vol. 85, p. 155.

† Law Reports, 18 Ch. D. 310.

‡ The passages omitted from this Memorandum are those which relate to a Bill, which failed to pass into law, for the amendment of the Charitable Trusts Acts.

§ The most persistent of all the misapprehensions of the law which regulates the action of the Commissioners is that which has suggested the opposition to proposals for the transfer of property to the Official Trustees, whether of Charity Lands or of Charitable Funds.

The agency of the Official Trustees of Charitable Funds effects two purposes :—

(1.) It secures absolutely the safety of capital, a matter which, as has been shown, is one in which the Commissioners have a direct responsility.

(2.) It relieves Charities from all expense and delay in obtaining payment of income when due.

The administration of the income of a Charity the funds of which are vested in the Official Trustees is in no respect whatever more completely under the control of the Commissioners than is that of any other Charities.

The Official Trustees have neither the means nor the power to interfere in the administration of the income, nor in the management of any Charities, and their duty in respect of income is confined by statute to remitting (free of charge), as they become due, the dividends and income of the funds standing in their name, to the Trustees of each Charity, for the purpose of being applied by those Trustees to the objects of their Trusts.

In like manner, it is declared by statute that the Official Trustee of Charity Lands is "a bare Trustee, and shall "permit the persons acting in the administration of the Charity to have the possession, management, and control "of the Trust Estates, and the application of the income thereof, as if the same had been vested in them."

The benefits derivable from the constitution of the Official Trustee of Charity Lands are, the simplification of title to Charity property, and the saving of the heavy and recurring expense of conveyances on each appointment of

42. The increased vigilance in, and wider scope given to, the exercise of those powers, which is due to their transfer to an authority specially constituted for that purpose, is the legitimate and designed consequence of the recommendations of the Reports of 1835-50, and is open, it would seem, to no objection in principle which does not call in question the soundness of those recommendations.

43. It is not, therefore, that functions which legitimately belong to Trustees are now being usurped by a central authority, but that the restraint upon the exercise of powers beyond the limits of those functions, which has always been maintained by that authority, is now more effectually exercised.*

* * * * * * *

NOTE.

The high authority which the composition of the Select Committee of the House of Commons of 1835 necessarily gives to its recommendations makes it desirable, especially as they are not now readily accessible in their original form, that they should be specifically stated here.

The Committee was composed as follows :—

Mr. Harvey.	Mr. Ridley Colborne.
Sir Robert Peel.	Mr. Divett.
Lord John Russell.	Mr. Hume.
Sir John Wrottesley.	Mr. Law Hodges.
The Attorney General (Sir J. Campbell.)	Lord Russell.
	Sir William Follett.
The Solicitor General (Sir R. M. Rolfe.)	Mr. Serjeant Talfourd.
	Mr. Charles Lushington.
Mr. Aglionby.	Mr. Mark Phillipps.
Mr. Blackburne.	Mr. Wilks.
Mr. Baines.	Mr. Warburton.
Mr. Brotherton.	Sir Robert Inglis.
Lord Granville Somerset.	Lord Francis Egerton.
Mr. Law.	Mr. Patrick Stewart.
Mr. Goulburn.	Mr. Moreton.
Viscount Sandon.	

The following are the general recommendations made by the Committee in their Report, which is understood to have been prepared by Sir William Follett :—

"Your Committee are inclined to recommend that the superintendence and, in certain cases, the administration of all property devoted to charitable uses should be entrusted to a permanent Board of three Commissioners, or some other independent authority, on whom should be imposed the duty of superintendence and control over the administration of all property devoted to charitable uses ; that such Board should have authority to call for, from time to time, and to enforce, a return or an account of the annual funds and property of any charitable institution, and have power to summon before themselves, or other persons specially authorised by them, all parties concerned in the management or administration of any charitable institution or funds ; in case of necessity to appoint, and, upon adequate cause clearly established, to remove, Trustees ; to take care that no sale, mortgage, or exchange of Charity property be effected without their concurrence, and that all funds applicable to charitable purposes be invested upon real or Government security ; to superintend their application ; to suggest and (if necessary) to enforce arrangements for the preservation or all documents and other writings relating to Charity estates ; to give acquittances in discharge of all payments in cases where no competent party can be found to give the same ; to audit from time to time the annual accounts of Trustees and other persons administering Charity property ; to have the power of removing masters and ushers, and to sanction the salaries to be paid to them, as also such allowances upon their retirement

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Trustees. The necessity for the concurrence of the Official Trustee in dealing with Charity lands has been dispensed with by Parliament, and is not in practice required, except in the case of sales ; which, as they can only be effected by the sanction of the Board, are not thus prejudiced.

* * * * * * A very large proportion, probably not less than one-half, of the funded property of Charities is now held by the Official Trustees of Charitable Funds, with the most beneficial results, and without the imposition of any restraint upon Trustees, other than as regards their dealings with capital, which, in all cases, whether or not the funds are held by the Official Trustees, are already subject to the control of the Commissioners.

A very considerable proportion, too, of the land of Charities is already vested in the Official Trustee of Charity Lands, with this result, that so little is the ordinary administration of a Charity varied by the circumstance that its real estate is so vested, that it is only in the two cases, either of a sale, or of the institution of legal proceedings in respect of land so vested, that the Trustees become practically aware of the fact.

* * * * * * *

* The following extract from the evidence given by Mr. Lowe (now Lord Sherbrooke) before the Schools Inquiry Commission, places in vivid contrast the action of the Court of Chancery and of the Charity Commissioners :—

"I am of opinion that not only is the Charity Commission a very useful machine as being cheaper than the Court of Chancery, and being very well adapted therefore to deal with small matters, but I think it a very superior machine to the Court of Chancery for the purpose of administrative changes in Charities, and for these reasons : in the first instance it costs nothing, in the next place it is perfectly easy of access to everybody, it is not restricted to any formal evidence, anybody may inform it in any way he pleases ; it has the means through its inspectors of informing itself much better of the local feeling and circumstances than a court of justice, tied down by very strict rules could possibly have ; and by means of the notices it gives, and the notoriety it ensures for all its proceedings, I believe, though it is a tribunal that does not have formal hearings of both parties, it secures all parties and all opinions being heard better than any court of justice can possibly do. It is also very much under the control of public opinion and of Parliament, and a member of it sits in the House of Commons. He is always liable to attack if anything is done wrong, and though I think there is great disposition in the House to support it in any reasonable way, yet, were it to set itself to work out any crochet or to take any course contrary to the enlightened opinion of the country, it would be very soon pulled up * * * It would immediately be made the subject of attack in the House, the thing would be called attention to, and if a strong expression of feeling were made I have no doubt that the course of the Commission would be altered. There is not the same difficulty and delicacy in altering the course of a body like the Charity Commission as there is in altering the course of a judicial officer like the Lord Chancellor or Vice Chancellor, on whose decisions the property of mankind depends, the Charity Commission being a body administrative and ancillary, and therefore more flexible. * * * I think it is entitled to the merit of being a sort of judicial discovery."—*Report of Schools Inquiry Commission*, Vol. IV., pp. 629, 639.

retirement as the circumstances may require and the funds will admit, such power to be exercised and such sanction given concurrently with Visitors where any such exist ; and generally to authorise such arrangements as shall appear calculated to promote the object of the founder ; and in cases in which that object is useless or unattainable, to suggest such other appropriation as may appear desirable. The Board to be empowered to suggest Schemes for the government of all Charities, and for the management of all estates and funds belonging to such Charities, and to correct any abuses therein, subject to the like concurrence in cases where there are Special Visitors ; and, in cases where parties are willing, the Board to be empowered, by themselves or others duly authorised by them, to adjudicate and finally determine all disputes respecting conflicting claims and accounts. Trustees to be indemnified for the acts which they may perform under the direction of the Board.

"In order to avoid the expense and delay inseparable from the present mode of administering legal remedies, as also to encourage summary arrangements, and for facilitating proceedings in cases where such are indispensable, your Committee recommend that no proceedings in equity be instituted until the case has been investigated by such Board, who shall, if necessary, certify to the Attorney General or Solicitor General that the case appears to them such as to require legal interposition.

"In cases where the parties, notwithstanding such suggestions, insist upon proceedings at law or in equity, the Board of Commissioners shall be directed to certify the special circumstances to the Court. It appears to your Committee advisable that the Court may, in such and all other Charity cases, be empowered to refer the investigation of the facts and circumstances to such Board, who shall report thereon to the Court. Your Committee would also suggest that, with the view of securing permanently the full benefits of the Charity Commission Inquiry, and a constant and uniform superintendence over the administration of all charitable institutions, such Board shall be duly authorised, in cases where it may appear necessary, to call from all proper persons for certain returns, to be specified in a Schedule similar in purport to the precedent adopted in the 26 Geo. 3, c. 58, which provides for returns in the following particulars:—The name of the person who gave any Charity ; when given ; whether by deed or will ; for what purpose given ; whether in land or money ; in whom the same is now invested ; the amount in money ; and annual produce. To these your Committee would add the number and names of the present Trustees, with whom the title-deeds of any Charity are deposited, and how the income is applied."

APPENDIX, No. 2.

PAPER handed in by Sir *H. Longley*, K.C.B., 25 April 1894.

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APPENDIX, No. 3.

PAPERS handed in by Sir *H. Longley*, K.C.B., 25 April 1894.

CHARITABLE TRUSTS ACTS.

EXTRACTS from ANNUAL REPORTS of the CHARITY COMMISSIONERS, 1885-93.

(1.) THE CHARITABLE TRUSTS (RECOVERY) ACT, 1891.

Thirty-fourth Report (for 1886), pages 11, 12.

Necessity for summary proceedings to compel payment of rent-charges.

THE increasing frequency with which our attention has of late been called to the difficulty of enforcing the payment of rent-charges, or other fixed payments charged on land, when they form the endowment, whether wholly or partially, of any but a largely endowed charity, induces us to renew the suggestion, made more than once in our previous Reports,* of the urgent need for the provision of some simple and inexpensive form of procedure, such as has been from time to time proposed in the various Bills for the amendment of the Charitable Trust Acts, introduced of late into Parliament by successive Governments, by which the rights of charities in cases of this description may be summarily asserted, and the further waste and abstraction of property dedicated to a charitable, and therefore a public, use may be prevented.

Cases not infrequently occur in which, on the devolution of property charged in favour of a charity with an annual payment, often made regularly and without question for a century or more by successive owners, a new taker, whether by succession or purchase, refuses to continue the payment, and thus calls upon the charity to prove its title.

In the majority of these cases the income of the charity does not exceed 20*l.* a year, and in many is of much smaller amount. In view, therefore, of the insufficiency of the endowment to furnish a guarantee against their personal liability to the payment even of those costs which, in the event of the ultimate restoration of the payment in the result of litigation, may fall upon the successful party, the trustees of such a charity, however clear its title may seem to be, commonly decline, not without reason, to initiate proceedings for the recovery of a charge of this nature.

The rights of the charity may be, and have from time to time, successfully been asserted in these cases by your Majesty's Attorney General, acting *ex officio*, as the guardian, in the public interest, of charitable endowments. Recourse has, however, been but rarely had of late to this procedure, though the mere threat of its adoption, made by or on behalf of the Attorney General, has been found in most cases to be efficacious.

We cannot but believe that the growing sense of the impunity with which these payments are thus found to be withheld is tending seriously to affect the security of the considerable proportion of the endowments of charities throughout the country which consists of these charges, and to afford a direct encouragement to the alienation of these endowments from the poor, for whose benefit charities of this particular class are almost exclusively designed, in favour of the owners of the land charged with the payments thus withheld.

Thirty-ninth Report (for 1891).

Bills in Parliament in 1888 and 1889 to facilitate recovery of payments due to Charities.

(23.) In our Thirty-fourth Report (at page 11) we called attention to the necessity for the establishment of some summary procedure for the recovery of arrears of rent-charges and other fixed payments of small amount, charged on land, and forming part of the endowments of charities, concluding our observations on this topic as follows :—

> " We cannot but believe that the growing sense of the impunity, with which these payments are thus found to be withheld is tending seriously to affect the security of the considerable proportion of the endowments of charities throughout the country which consists of these charges, and to afford a direct encouragement to the alienation of these endowments from the poor, for whose benefit charities of this particular class are almost exclusively designed, in favour of the owners of the land charged with the payments thus withheld."

It was, as we have reason to believe, with the view of providing a remedy for the mischief thus indicated that a Bill entitled " The Charities (Restitution) Bill " was introduced in the Session of 1888 into the House of Commons by Sir Walter Foster, M.P., and other Members of Parliament. No progress, however, was made with the Bill in that Session ; and in the Session of 1889 a Bill intituled " The Charities (Recovery) Bill," having the like object, but differing materially in form from the Bill of 1888, was introduced into the House of Lords by Lord Herschell. With this Bill, too, no progress was made.

The Charitable Trusts (Recovery) Act 1891.

(24.) In the early part of last year a Bill based on that of 1889 was laid before us by Sir Walter Foster, and having, after some modification, received the approval of your Majesty's Government, was introduced into the House of Commons by him, by Mr. James William Lowther, M.P., then a Member of our Board, and by other Members of Parliament. The Bill encountered no opposition in either House of Parliament, and eventually received the Royal Assent on the 11th of May last, under the title of " The Charitable Trusts (Recovery) Act, 1891 " (54 Vict. c. 17). By

* Fourth Report (1856), p. 5 ; Twenty-fifth Report (1877), pp. 8, 9.

By this Act it is provided (Section 3), that where it appears to our Board that any proceedings should be instituted for the recovery of any property the gross annual income of which does not exceed 20*l.* a year, and which appears to our Board to belong to a charity, the Board may itself, with the sanction of the Attorney General, institute such proceedings on behalf of the Charity.

By Section 5 of the Act, it is further provided that, for the purpose of any proceeding instituted by our Board under the Act, (1) the Reports of the Commissioners for inquiring concerning charities, 1818–37, shall be admissible as *primâ facie* evidence of the documents and facts therein stated; and (2) where any yearly or other periodical payment has been made in respect of any land, to or for the benefit of any charity, for 12 consecutive years, such payment shall be deemed *primâ facie* evidence of the perpetual liability of such land to such payment, and no proof of the origin of such payment shall be necessary.

We anticipate that this enactment will remove many of the obstacles which, in respect both of procedure and of evidence, have hitherto been presented to the protection of that part of the property of charities which consists of these fixed payments. Several cases have already been brought to our notice in which we propose to take proceedings under the power thus conferred upon us, although the benefits to be derived from the operation of the Act cannot be fully realised until the rules for practice and procedure contemplated by Section 6 of the Act shall have been made.

EXTRACT from the Forty-first Report of the Charity Commissioners (for 1893).

The Charitable Trusts (Recovery) Act, 1891.

(23.) The experience of the past year has confirmed the opinion expressed in our last Report (paragraph 38) of the efficiency of the procedure established by the Charitable Trusts (Recovery) Act, 1891 (54 Vict. c. 17), for the protection of charity property of a class hitherto peculiarly liable to depredation (*see* Thirty-fourth Report, page 11). Since the commencement, in the course of the year 1892, of proceedings under that Act, we have determined to apply to the Attorney General for leave to institute proceedings for the recovery of property in 22 cases. In 12 of these cases our action has already been followed by the recovery in full of the property claimed; in four cases the sanction of the Attorney General to the institution of the necessary proceedings has been obtained, and instructions have been given for their commencement, and two cases are still under consideration. In the remaining four cases the facts did not appear to the Attorney General to justify further action.

(2.) THE PARLIAMENTARY CHARITY COMMISSIONER.

Thirty-fifth Report (for 1887), pp. 7–10.

Fourth Charity Commissioner.

BY the Charitable Trusts Act, 1853, by which this Commission was originally constituted, it was provided (Section 1) that it should be lawful for your Majesty to appoint three Commissioners, two at least of whom should be barristers of 12 years' standing, holding office during good behaviour, and a fourth Commissioner, holding office during your Majesty's pleasure. The fourth Commissioner to be so appointed was excepted from those provisions of that Act which directed the payment of salaries to the other Commissioners (Section 4), and which rendered those Commissioners incapable of sitting in the House of Commons during tenure of office (Section 5).

The object of these several provisions may be gathered from the following reference to the constitution of the proposed Charity Commission made by Lord John Russell on the motion for going into Committee in the House of Commons on the Bill which ultimately passed into law as the Charitable Trusts Act, 1853. It had been proposed in the Bill as originally introduced into the House of Lords by the Government, of which Lord John Russell was a member, that the powers created by it should be exercised by the Committee of the Privy Council on Education, with certain legal assistance. Lord John Russell, after stating that the Bill had been referred to a Select Committee of the House of Lords, proceeded as follows:—*

> "It was the opinion of that Committee that it would be better that the question of general superintendence and administration of charities should be altogether separated from any political question and from the interests of any party. They thought that that could not be effected by the proposition which had been made by the Government; . . . . ."

Lord John Russell then proceeded to state the amended constitution, as it now stands in the Act of 1853, which had been proposed by the Committee of the House of Lords, as that of the body to be entrusted with the powers created by the Act, and added, referring to the fourth Commissioner—

> "There was one person, as the Bill now stood, who did not require a legal qualification and who would be a member of that House" (*i.e.*, the House of Commons).

Accordingly, upon the passing of the Act of 1853, the post of fourth Commissioner was filled by the appointment of Sir George Grey, a member of the House of Commons, but not then holding office under the Crown. Upon the resignation of that post by Sir George Grey, on his acceptance of the office of Secretary of State for the Colonies, Lord John Russell, then holding the office of Lord President of the Privy Council, succeeded him as fourth Charity Commissioner.

From that time up to the past year the office of fourth Commissioner has invariably been filled by a member of the House of Commons holding high office in your Majesty's Government; and, with the two exceptions of the first and the present Vice-Presidents, the Vice-President for the time being of the Committee of the Privy Council on Education has, ever since the creation of that office, held also the office of fourth Charity Commissioner.

The anticipations, which were doubtless entertained, that a departure from the conditions under which that post was originally created might be attempted, and that it might conveniently be held by a Minister whose functions differ widely from those of our Board, have not, it would seem, been justified by the event. The records of our proceedings indicate that, up to the year 1874, the fourth Commissioner was present at meetings of our Board on nine occasions only, and that several of the Ministers who held that office previously to that date attended no such meeting.

On the passing of the Endowed Schools Act, 1874,† by which the administration of the Endowed Schools Acts was transferred to our Board, the relation of the Vice-President of the Committee of Council on Education to our body became more complex. As a member of our Board he was, in theory at least, a party to the framing and submission to that Committee, under the provisions of the Endowed Schools Acts, of schemes, for the approval of, or other dealings with which, by the Committee, he was, as Vice-President, largely responsible. The inconvenience and anomaly of this double relation have led to the abandonment by the Vice-President, since the year 1874, of all participation in, and of all responsibility for, our proceedings. In the absence, however, of any more direct representation of our Board, it has been the practice in the House of Commons to attribute to the Vice-President, as technically a member of the Board, a knowledge of our proceedings which he has not in fact possessed, and to look to him for such information in respect of them as may be required from time to time.

In

* Hansard, Parliamentary Debates, Vol. 129, p. 1154.

† 37 & 38 Vict. c. 87.

In these circumstances the Vice-President, while treating with full responsibility, in virtue of that office, all questions arising in Parliament as to dealings by the Education Department with schemes submitted to it by us under the Endowed Schools Acts, has not been in a position to represent our Board otherwise than as the channel for conveying to Parliament information supplied from our office, as occasion arose, on matters of which he has not been personally cognisant, and in respect of which he has borne no actual responsibility.

These results of the combined tenure of the offices of Vice-President and fourth Charity Commissioner have, on several occasions, formed the subject of public inquiry,* and it is understood that the attention of successive holders of those offices has been of late directed, by the increasing frequency of questions and discussions in Parliament in reference to our proceedings, to the ambiguous and embarrassing position in which they have thus found themselves placed.

Experience would thus seem to have suggested the policy of reverting to the provision originally devised for the representation of our Board in Parliament, by a member of the Board who can make himself acquainted, by personal attendance, with the general work of our office. Your Majesty has accordingly been pleased to appoint during the past year as fourth Charity Commissioner a member of the House of Commons, holding no other office under the Crown, and consequently in a position to acquire, by attendance at the meetings of our Board and otherwise, the general familiarity with our proceedings which still appears, as it was deemed by the Government of 1853, to be a condition of our adequate representation in Parliament.

(3.) DEMAND FOR GENERAL STATISTICAL INFORMATION AS TO CHARITIES.

Relations of Charity Commissioners with Local Authorities.

Compilation of New Edition of Reports of Lord Brougham's Commission (1819–37).

Thirty-sixth Report (for 1888).

Appendix A.

Memorandum on the Demand made during the Session of 1887 for Inquiry into the Charities of Wales.†

Ever since the establishment, in 1853, of the Charity Commission, it has been the practice of the Commissioners to record all information acquired by them from time to time, in the result of the inquiries which they are empowered by the Charitable Trusts Acts to make, as to—

(*a.*) Charities recorded in the Reports made (1819–37) by Lord Brougham's Commission of Inquiry ;

(*b.*) Charities existing at the date of that inquiry, but not recorded in those Reports ; and

(*c.*) Charities founded subsequently to that date.

The Commissioners have from time to time, in their annual Reports‡ and otherwise, stated that these records of "Unreported Charities," as they are termed, contain a considerable mass of valuable information which might be published with much advantage to the public, and that this publication might be most conveniently effected by the incorporation of this new matter into a revised edition of the Reports of Lord Brougham's Commission.

That such a re-issue of those Reports would be generally acceptable, and of public utility, may be inferred from—

1. The constant demand for copies of the Reports of Lord Brougham's Commission (now long out of print) which is made upon the Office of the Charity Commission.

2. The inquiries made at the Office of the Commission for information as to newly founded Charities.

3. The numerous questions asked in Parliament as to Charities, the necessity for many of which would be obviated, and the misapprehension upon which they frequently rest corrected, if an authoritative account of the history and present condition of Endowed Charities were published in a convenient form.

It may be noted here that any new edition of the former Reports should, to be generally available, be published separately for each county. The original Reports of Lord Brougham's Commission lost much of their value in consequence of their issue irrespectively of local arrangement.

The latest occasion on which the views of the Charity Commissioners on this subject were publicly expressed was the examination of the present Chief Commissioner on the 8th of June 1886, before the Select Committee of the House of Commons on the Endowed Schools Acts.§ In answer to Question 6214, Mr. Longley said—

* * * * * *

"I am anxious to take this opportunity to indicate to the Committee, as they have made some inquiries about statistics, what our general information is. The general information is contained, in the first instance, in those forty-two volumes, which are lying on the table over there, of Lord Brougham's Commission. The information contained in those volumes is supplemented by information contained in fifty-five" (now sixty) "manuscript volumes of this size" (*producing a volume*), "which contains information of three kinds: First, information as to the Charities which are comprised in Lord Brougham's Return, which is brought down in print to 1839—information acquired since the date of those Reports by means of inquiries made by us ; secondly, accounts of Charities which existed in 1839, but which had escaped the vigilance of Lord Brougham's Commission—those Charities, I may say, we are constantly discovering ; and, thirdly, information as to Charities founded since 1839. Whether it may be that Parliament will ever desire to have a new edition of that Report I do not know, but it might well be worked out in particular counties, and a county might be taken at a time."

* * * * *

The evidence thus given appears to have suggested the questions mentioned above, which were raised in the House of Commons during the Session of 1887, as to the special necessity of local inquiry into the condition of the Welsh Charities.

In

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* School Inquiry Commission, Minutes of Evidence (1868), Q 6530–4. Select Committee of House of Commons on Charitable Trusts Acts, 1884, Minutes of Evidence, Q. 702–707, 1000–1004, 1349, 1355. Select Committee of House of Commons on Endowed Schools Acts, 1886–87, Minutes of Evidence, Q. 248–51, 426–7, 6232, 6341, 6348, 6349.

† Hansard, Parl. Deb., Vol. 317, pp. 1530–2.
" " " 318, pp. 373 and 385.
" " " 320, pp. 626–8.

‡ 3rd Report (1855), p. 4 ; 6th Report (1858) p. 5 ; 26th Report (1878), pp. 3, 4 ; 31st Report (1883), p. 9.

§ Report of Select Committee of House of Commons on Endowed Schools Acts (Sess. No. H.C. 191 of 1886).

In the course of the discussions thus originated it was indicated on behalf of the Government that when provision should be made for the necessary increase of the staff of the Charity Commission they would entertain favourably a proposal for the institution of the proposed inquiry.* And it is not too much to say that the passing of the Charity Commissioners' Officers Act, 1887,† was materially facilitated by the action of Mr. T. E. Ellis, M.P., and other Welsh Members, acting in the belief, expressed by Mr. Ellis in his speech on going into Committee on the Bill‡ that the organisation necessary for the prosecution of those local inquiries would—as was the fact—be supplied by that Act.

Mr. T. E. Ellis has recently urged the Commissioners to institute the local inquiries necessary for the issue of a revised edition of the Reports of Lord Brougham's Commission in respect of Charities in Wales. The Charity Commissioners have replied that they are as desirous as ever that a new edition of the whole of the Reports of that Commission should be issued to the public; that a work of such magnitude is not likely to be undertaken by the Treasury, or by Parliament, except by instalments; that the issue of such a new edition in respect of one or more separate counties would tend greatly to facilitate the progress or the whole work, by affording an indication of its probable cost and duration, and by establishing its value; and that the Commissioners are disposed to concur in Mr. Ellis's opinion that the work may fitly be begun by dealing with some or all of the Welsh counties, because—

(*a.*) Those counties are small, and definite results may be obtained, and early publication ensured at a comparatively small expenditure of time and money.

(*b.*) The condition of the original Reports, and of supplementary information, as to Welsh Charities is defective, owing, probably to the remoteness of many of the districts, and to the generally backward condition of the country, if not, in part, to the prevalence of the Welsh language.

(*c.*) A need exists—illustrated in some measure by the Report of the Departmental Committee of 1881 on Intermediate and Higher Education in Wales §—of precise and recent information as to Welsh Charities, educational and eleemosynary, as a condition of effective legislation on the subject of education in Wales.

But the Commissioners added that such a work could, in their opinion, be carried out only by a renewal of the local inquiries on which the original Reports were based, and that while the organisation created by the Act of 1887 was fully capable of providing the staff necessary for conducting those inquiries, the Commissioners had no funds at their disposal for the employment of officers for that purpose.

The Commissioners accordingly suggested to Mr. Ellis that he and those with whom he acted in this matter should approach the Treasury with the view of obtaining the funds necessary for the purpose of the proposed inquiry, and the Commissioners further undertook to support any representations which might thus be made.

It is suggested, then, that a general work of admitted public utility may be initiated so as to promote the immediate and special interests of Welsh education by the institution forthwith of local inquiries by the Charity Commissioners into the present condition of charitable endowments in two selected Welsh counties with a view to the immediate publication of the results of those inquiries as forming part of a new edition of the Reports of Lord Brougham's Commission.

Thirty-seventh Report (for 1889).

Increased demand by Parliament and otherwise, for statistical returns.

(13.) The public demand for information as to the circumstances of Endowed Charities in Wales in the aggregate is not the only indication which has recently been given of a general desire for the development of the functions of our Board in a direction which, if not new, is one in which our action has hitherto proceeded casually and in a subordinate degree.

The prime functions of our Board, as constituted by the Charitable Trusts Acts, are those which are concerned—as the Courts of Equity, for which in respect of their jurisdiction over Charitable Trusts, our Board was in a large measure substituted by those Acts, were and still are exclusively concerned—with the administration of relief and the exercise of control in the case of individual Charities as occasion may arise. These functions, thus limited, do not necessarily bring us into contact with the aggregate composed of all Endowed Charities, or, rather, of all Charities subject to the jurisdiction created by the Charitable Trusts Acts; an aggregate with which our general relations are but indirect and potential.

We have not been required by the Charitable Trusts Acts to compile statistics, or to maintain a register, of the aggregate of Charities generally subject to the jurisdiction created by those Acts; and our staff has consequently not been definitely organised for such a purpose. From time to time, however, statistical returns as to Endowed Charities have been called for by Parliament, and have been furnished by us so far as the fragmentary information at our command had enabled us to do. The labour of such a compilation, unassisted by a previous arrangement of materials, and performed, necessarily, in haste, and as work subsidiary to their ordinary employment, by a staff organised solely with a view to that employment, has been considerable; and its results, though in the main satisfactory, have not been so full and complete as it might otherwise have been possible to render them. The "General Digest of Endowed Charities," presented to Parliament, county by county, between the years 1861 and 1875, was thus compiled, and has been found of much public utility, as presenting, within certain necessary limits, a comprehensive and readily accessible statement of Endowed Charities known at the date of its issue to be within the jurisdiction of our Board.

Independently of the quasi-judicial functions already mentioned as coming to be discharged by us in individual cases, these exists one necessary point of contact between our Board and every Charity within our jurisdiction, in the discharge by us of our duty—notably administrative and not judicial in its nature, and thus original and independent of any previous practice of Courts of Equity—of requiring, and receiving, so as to be accessible to the public, those returns of the accounts of Charities which the Trustees are required by the Charitable Trusts Acts annually to render to us. Although the powers with which we have been furnished of enforcing the return of these accounts by Trustees of Charities have never failed to enable us to procure all necessary information as to the circumstances of any particular Charity, our former Reports will be found to indicate that a complete compliance by Trustees of Charities with the law in this respect has not as yet been secured, though progress is gradually made in that direction.

It is mainly by means of information, derived from the accounts thus returned to us, that we have been enabled to furnish the intermittent and occasional statistical information as to Charities generally which has from time to time been required of us by Parliament; and the lapse, as already mentioned, of 14 years in the compilation of the "General Digest of Endowed Charities," furnishes a measure of the difficulty with which this work has been accomplished in the past. We

* Hansard, Parl. Deb., Vol. 317, p. 1531.
† 50 & 51 Vict. c. 49.
‡ Hansard, Vol. 320, p. 626.
§ Sess. No. C.—3047 of 1881.

We have found, however, of late that requisitions upon us for general statistical information respecting Charities are being made with greater frequency, both by Parliament and otherwise. During the past year, especially, public attention has been turned in this direction in the result of the transfer, effected by the "Local Government (England and Wales) Act, 1888," to the County Councils created by that Act, of all business done by Quarter Sessions in respect of the registration of Charitable Gifts under the Act 52 Geo III., c. 102. The provisions of this Act, which had from the first been but very partially and irregularly carried into effect, had become obsolete prior to the constitution of our Board in 1853 by the Charitable Trusts Act of that year, by the reqirements of which Act, in respect of the returns of the accounts of Charities, those provisions were practically superseded.

The prominence thus given to the existence of this disused Act has, not unnaturally, drawn the attention of many County Councils to the present condition of public information as to Charitable Trusts generally. And requests have in some cases been already made, and it may be confidently anticipated that further requests will in future be very commonly made to us, for statistical information as to Charities in various Counties.

Reorganisation of department of accounts as a statistical department for the purpose of meeting this demand.

(14.) It appears to us that, in order to meet this growing demand, which can be satisfied only by a recourse to the vast and undigested mass of particulars accumulated in our office, and to the exercise of the statutory powers of procuring information which are exclusively possessed by us, it has become necessary to place on a permanent and organised footing the compilation in a statistical form of this information, with the view of rendering it readily accessible to the public.

This object it is proposed to effect by means of a reorganisation, already in progress, of the department of our office heretofore charged with the receipt of the returns of accounts rendered by Trustees of Charities. It has already been pointed out that it is by means of these returns of accounts that we are brought, most universally, into touch with Charities throughout the country, and the information afforded by the returns is such as to lend itself most readily to statistical arrangement. It is hoped that, by the reorganisation thus contemplated, we may be enabled not only to meet the demands made upon us for statistical information, but also incidentally to secure a more general and punctual discharge by Trustees of Charities of their duty of rendering accounts to our Board.

It may be well, in referring to these returns of accounts, to repeat the caution, given in our former Reports, to the effect that, while these and other advantages to the public are involved in their receipt by us, these advantages are in the main secured, in the words of our Fourteenth Report, "without any general examination "or annual audit of the accounts in our office. The Charitable Trusts Acts do not prescribe nor, as we think, "contemplate such a gigantic operation, for which, moreover, the existing establishment and machinery of our "office would be entirely inadequate. In all necessary cases, however, the accounts are subjected to a rigid "examination under our direction."

Thirty-eighth Report (for 1890).

Increased demand by Parliament and otherwise for statistical and other returns and information.

(9.) We have had occasion of late to notice in our annual Reports two particulars, in which a development of our work is increasingly demanded by the public, in directions which, if not wholly new, are such as the conditions of our organisation have not formerly permitted us to pursue freely and with general effect. The points thus indicated are (*a*) the extension of local inquiries into the history and working of charitable endowments,* and (*b*) the preparation and publication of statistical information as to those endowments.† The facilities afforded by the Charitable Trusts Act, 1887 (50 & 51 Vict. c. 49), for the appointment of Assistant Commissioners by our Board, and the steps taken, as mentioned in our last Report (par. 14), towards a reorganisation of those branches of our staff by which the work of compiling statistical information has come to be discharged, have now placed us in a position, if we shall be furnished with the requisite staff, to meet the demands which may be made upon us either for extended local inquiries or for statistical information.

Applications by County Councils for information.

(10.) That our preparations for meeting these growing demands have not been prematurely made is abundantly proved by the experience of the past year. In our last Report (par. 13) we noted the circumstances which had tended to attract the attention of the County Councils constituted by the Local Government (England and Wales) Act, 1888 (51 & 52 Vict. c. 41), to the condition of public information as to Charitable Trusts generally; and we further stated that it was to be anticipated that, in the result, applications would be made to us for information. This anticipation has been promptly fulfilled; for, during the past year, the County Councils throughout England, with but few exceptions, have addressed to us various requests upon points relating to the history and the administration of local Charities.

Nature of information applied for.

(11.) These communications have, in many cases, been initiated by inquiries as to the operation of the now obsolete Act (52 Geo. III. c. 102), by which provision was attempted to be made for the local registration of Charities, and of which some account was given in our last Report (par. 13). The requests of a more immediately practical bearing, made to us by the County Councils, have been directed to various points, such as (*a*) the supply of information respecting local Charities whether generally, or with reference to particular cases; (*b*) the supply of complete lists of local Charities, and of copies of the accounts of those Charities; (*c*) the re-editing of the Reports of the Commissioners for inquiring concerning Charities, 1818–1837; and (*d*) the publication of a supplemental Digest, bringing up to date the "General Digest of Endowed Charities in England and Wales" presented to Parliament by our Board between the years 1861 and 1875. Information has also been similarly sought upon special points, such as the particulars of rent-charges, forming part of the endowment of local Charities, the payments of which are in arrear;‡ and we have been requested to furnish lists of Charities for particular objects, *e.g.* eleemosynary or educational. In some cases, too, we have been asked by County Councils to furnish them with copies of all draft schemes published by us for any Charities administered for the benefit of places within their jurisdiction.

Present mode of dealing with these applications. (Appendix B.)

(12.) In dealing with the demands thus made upon us, we have found that, for the present at any rate, the requirements of the Councils have to a considerable extent been met by (*a*) a reference to the "General Digest of Endowed Charities," 1861–75, the existence of which does not seem to be widely known, (*b*) an undertaking on our part to furnish to each County Council making a definite request by resolution, a "Digest of Endowed Charities" in the county, the particulars of which are recorded in our books, but are not recorded in the "General Digest of Endowed Charities" in that county,§ (*c*) an intimation that copies of the accounts of all or any of the Charities in a county

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* 34th Report. p. 10.

† 37th Report, pars. 13, 14.

‡ *See* 34th Report, pp. 11 and 12.

§ A Return of such a Digest for the County of Oxford was ordered by the House of Commons on the 24th June 1890, to be printed, and has since been issued (House of Commons, 1890, 247).

county will be furnished to the County Council upon making the payment prescribed by Section 44 of the Charitable Trusts Act, 1855 (18 & 19 Vict. c. 124). Where a request has been made for the particulars of rent-charges in arrear, we have expressed our readiness to facilitate any motion made in Parliament for such a Return in this respect as has already been ordered by the House of Commons for certain counties in England.*

A copy of a letter, addressed by us to the Council of the County of London in answer to a request for information on some of the points here mentioned will be found in Appendix B to this Report, and will illustrate our course of dealing with requests of this nature.

What is required in order to deal with them effectually.

(13.) We cannot, however, but be aware that the information thus supplied will probably fall short of the ultimate requirements of the County Councils; and there is reason to believe that these requirements can be completely satisfied only by the issue, in the result of local inquiries made by our Board, of a new edition of the Reports upon the Endowed Charities of England and Wales, made by the Commission of 1818–1837 such as is now, in pursuance of an Order of the House of Commons, about to be laid on the table of that House for the County of Denbigh, as already mentioned in paragraph 8 of this Report. We learn, indeed, from the published reports of the proceedings of the Council of the County of London, that negotiations are on foot between the Council and the Lords of Your Majesty's Treasury with the view of making some joint provision for the cost of inquiries to be conducted by our Board for the purpose of completing the desired edition of those Reports for that county; and we entertain little doubt that the example thus set will be speedily followed in other counties. In these circumstances it may be useful to cite the following passage from our 36th Report, in which a description is given of the nature and sources of the information to be thus furnished:—

> "We propose that the results of these inquiries shall be ultimately presented to Parliament in the form of a new edition, brought up to the present date, of the Report of the Commission of 1818–37 * * * * In the Report thus edited the information newly acquired in the course of the present inquiries will be combined with that which is contained in our Register of Unreported Charities, and in the other Records of our office, so as to present to the public, within the limits of a single document, a complete official record of Endowed Charities in an entire county."—Par. 11.

It is obvious that, for the purpose of affording the assistance to County Councils which is so largely required of us, a substantial addition must be made to our available means, both for the institution of local inquiries, and for the compilation, from the reports of these inquiries, as well as from the various other sources at our command, of statistical information. Convinced as we are of the utility, for imperial as well as for local purposes, of the compilation and publication of detailed information as to the Endowed Charities of the country, we shall be ready, on being furnished with the requisite staff, to render prompt and complete compliance with the demands made upon us.

Increase in the number and endowment of recorded Charities.

(14.) Some measure of the extent to which the existing information as to the Endowed Charities of England and Wales may be supplemented by means of unpublished records in our office is furnished by the following comparison, in the case of five English counties, of the number and total amount of income of separate Charities recorded in the General Digest of 1861–1875 for those five counties with the like number and amount recorded by us respecting Charities in those counties since the date of the information given in that Digest. The Charities in those five counties have lately been under examination with a view to the preparation of Returns asked for by the County Councils of those counties:—

County.	Date of Information given in the General Digest of Charities in the County.	Increase of the Number, and Amount of Income, of Charities recorded since the date of the General Digest, expressed as a Percentage upon the like Number and Amount as shown in that Digest.	
		Number of Charities.	Total Income of Charities.
Cumberland	1865	60·35	93·78
Derby	1870	20·9	25·1
Northampton	1872	18·37	5·33
Oxford	1870	27·4	20·8
Surrey	1863	34·75	47·44

The increase in recent years in the number, and amount of endowment, of Charities, thus indicated, is largely due to the continued foundation of new Charities; a circumstance tending to dissipate the doubts entertained in some quarters whether the effects of modern legislation as to Charitable Endowments may not have operated to check the course of benevolence as expressed in the creation of new Charities.

Relations between this Commission and local authorities.

(15.) The request made by County Councils to be furnished with copies of Draft Schemes published by us for the regulation of local Charities is one which differs materially from the other requests made by those bodies, as pointing to the maintenance of relations of a permanent character between ourselves and local representative authorities. Acting upon the suggestions of the Select Committee of the House of Commons, which reported in the year 1884 upon the working of the Charitable Trusts Acts (Report, p. xi), we have for some time past made it our practice to furnish Municipal Corporations with copies of Draft Schemes published by us for Charities within the areas of their respective jurisdictions. We have readily availed ourselves of the opportunity at length afforded by the creation of representative authorities for the country at large to secure that measure of local support in our dealings with individual endowments for which we have long hoped, not only through an assent to the above-mentioned request, but also by providing for the representation of the Council upon the governing bodies of Charities in which any county may be generally interested, as well as by other means. We anticipate that it will be found practicable to secure this local support and aid to our work in a far larger measure, whenever effect shall be given to the proposals for the constitution of District Councils. The need (so fully insisted on as regards Educational Endowments in the Report of the Schools Inquiry Commission of

* The following Returns have been printed by Order of the House of Commons, viz., for the Counties of Cumberland, Devon, Derby, and Suffolk (House of Commons, 1889, 309), and for the Counties of Warwick and Worcester (House of Commons, 1890, 76).

1864–7*) of the interposition, between the local administrators of individual Charities and our Board as the agent of central control, of a representative local authority, is certainly not less urgent now than at the date of that Report, and is as requisite in the case of endowments for other than educational purposes as it is in the case of Educational Endowments. Of such a co-ordination of local and central authority the constitution by the Welsh Intermediate Education Act, 1889, of a Joint Education Committee in each county in Wales and Monmouthshire affords a recent and interesting example. In the foregoing circumstances we cannot but entertain the hope that, by a cordial co-operation with the local authorities thus constituted and to be constituted, fresh securities, hitherto but partially, if at all, available for the sound and efficient administration of Charitable Trusts, may be afforded in the future.

Appendix B.

Charity Commission, Whitehall, S.W.,
20 November 1889.

Sir,

In reply to your letter of the 30th October last, I am directed by the Commissioners to make the following observations and suggestions :—

(1.) The Local Government (England and Wales) Act, 1888, provides for the transfer to the Council of each county of all business done by the quarter sessions or any committee appointed by the quarter sessions in respect of the following, among other matters, viz., the registration of charitable gifts under the Act 52 Geo. III. c. 102.

(2.) A statement of the extent to which this Act (which was passed on the 9th July 1812) was complied with will be found in page 5 of the Explanatory Memorandum to the "General Digest of Endowed Charities" prepared by the Charity Commissioners, being a "Further Return to an Order of the House of Commons, dated 26th July 1867, No. 261, ordered by the House to be printed on the 12th June 1877." It will be seen from that document that the compliance with the Act was very partial ; and that "inasmuch as there was no person or department mentioned in the Act upon whom the duty of enforcing such compliance devolved, the Act was practically a failure."

(3.) To this reason for the failure of the Act might be added many others, suggested by a study of the provisions of the Act ; of which, however, it will, in this place, probably be sufficient to indicate the following—

(*a.*) The numerous and intricate exceptions to the operation of the Act (*see* sections 10, 11, 12, and 13) made it very difficult for any quarter sessions to ascertain whether any given charity was one which ought or ought not, under the Act, to be registered with them ; and, indeed, it would almost appear that in some cases the magistrates could hardly have felt satisfied on this point without the aid of judicial decisions.

(*b.*) In the case of Charities, of which there are very many, operating in more than one county, the Act did not say which county was to have the registration or to take the initiative in the proceedings, and the proceedings, when taken, were not such as would produce a register of any local value. (*See* section 4.)

(*c.*) To the case of Charities which, though locally administered, are not local in their objects (of which there are very many), it would seem to be at least doubtful whether the Act had any application. (*See* sections 1 and 4.)

(4.) But whatever opinion may be entertained as to the original value of this Act at the time when it was passed, there can be no doubt that the procedure under it is now practically superseded by the provisions of the Charitable Trusts Acts, and the establishment and operations thereunder of the Charity Commission for England and Wales. The course of events, subsequent to 1812, which led up to the establishment of that Commission, will be found described in the above-mentioned Explanatory Memorandum ; and it only remains now to state what organisation the Commissioners have set on foot, and what steps they take, under those Acts, for the due registration of hitherto unrecorded and of newly founded Charities.

(5.) The Reports of the Commissioners of 1818 to 1837 (popularly known as Lord Brougham's Commission) give a complete account, made after local and other inquiries, of the Charities in England and Wales found to be existing at that time. And between the years 1861 and 1877 the Charity Commissioners compiled and published a general digest, arranged, so far as was possible, according to counties, of all the Charities then known to them to exist.

(6.) Under the provisions of the Charitable Trusts Acts the trustees of all endowed Charities subject to those Acts are required to render to the Commissioners statements of their receipts and expenditure annually, and of the particulars of their endowments, whenever called upon to do so.

(7.) A list of all deeds enrolled in Chancery under the Mortmain Acts is periodically supplied to the Commissioners by the Clerk of Enrolments.

(8.) An arrangement has also been made with the authorities at Somerset House to supply the Commissioners from time to time with a list of wills proved in London which appear to contain gifts to charitable uses. It is the duty of one of the officers of the Commission to visit Somerset House periodically, to inspect (free of charge under the provisions of the Charitable Trusts Act, 1853, section 11) all such wills, and to make sufficient extracts therefrom for the purpose of communications with the executors or of other proceedings preliminary to the due registration of the gifts.

(9.) From the information obtained by the above-mentioned means (including the returns of accounts), as well as by means of local investigations by inspectors and assistant commissioners, and of correspondence, are obtained, and recorded in the books of this office, the particulars of Charities not previously ascertained.

(10.) The conclusion to which the County Council of London will probably be led, by a consideration of the foregoing observations, is that the registration to which section 3 (15) of the Local Government (England and Wales) Act, 1888, refers is not now of any practical use, and that the machinery thereunder has been superseded by that of the Charitable Trusts Acts.

(11.) In reply to your inquiry whether the Commissioners can give the Council any practical suggestions in this matter I am to say that the only such suggestion which occurs to the Commissioners at the present time is that the Council, whenever they desire information in reference to any particular Charity, should, as a first step in the matter, apply to the Commissioners for a copy of the accounts of such Charity for any recent year or years. Those accounts would then be furnished to the Council under the provisions of section 44 of the Charitable Trusts Act, 1855, and from them the Council would be able to obtain information as to the income of the Charity in question and the objects to which that income was applied.

I have, &c.
(signed) *D. R. Fearon.*

H. De la Hooke, Esq.,
London County Council,
Spring Gardens, S.W.

* Pages 627, 628, 637–44.

Thirty-ninth Report (for 1891).

Increase in the number and endowment of recorded Charities.

(21.) In our last Report (par. 14) we stated that the results of the examination, with a view to the preparation of these Returns, of the Charities in five counties there specified, indicated a considerable increase in recent years in the number and the amount of the endowment of Charities in those counties, and that that increase was largely due to the continued foundation of new Charities. We are now able to state the results in this respect of a like examination of the Charities in no less than nineteen counties or county areas as follows :—

Date of information contained in the General Digest of Charities in the Nineteen Counties or County Areas.	Number and amount of income of Charities recorded since the date of the General Digest, expressed as a percentage upon the like number and amount as shown in that Digest.	
	Number of Charities.	Total income of Charities.
Varying in the several counties from 1861 to 1874 - - -	30·31	27·16

These figures, taken together with the statement already made in paragraph 7 of the number of Charities newly recorded in our books during the past year, establish beyond doubt the fact of the rapid and continuous increase of the Charities subject to our jurisdiction.

Proposed inquiry into Charities in the County of London.

(22.) In our last Report (paragraphs 10–13) we stated, in connection with a notice of the very general manifestation by County Councils of interest in the history and administration of Endowed Charities in their respective counties, that we had reason to believe that negotiations were on foot between the Council of the County of London and the Lords of Your Majesty's Treasury with the view of making some joint provision for the cost of inquiries, to be conducted by our Board, for the purpose of completing a new edition of the Reports on the Endowed Charities of the area now comprised in that county, made by the Commissioners for Inquiring concerning Charities, 1818–37.

In the course of the past year, we have received communications from the Lords of the Treasury and from the Council of the County of London, from which we gather that the Lords of the Treasury are willing, if our Board should hold that the contemplated extension of the Reports of the Commissioners of 1818–37 would be of service to us as an office of the Central Government, to share with the County Council the expense of thus extending those Reports. We also learn from these communications that it is the desire of the County Council that the proposed Reports should be based upon a local inquiry to be held by our Board in the case of each Charity, and that the Council have informed the Lords of the Treasury that they are willing to pay one-half of the expenses of the proposed Reports, and further that they have resolved to set apart a sum of 750*l.* for the financial year, 1891–2, for the share of those expenses for that year, on account. On our part we have conveyed to the Lords of the Treasury and to the County Council an expression of our opinion that the proposed Report will be valuable for Imperial purposes ; and we have made an application to the Lords of the Treasury for their sanction to the additions to our staff necessary in our judgment to enable us to discharge the duty thus proposed to be assigned to us. We have reason to anticipate that the necessary provision for this purpose will be included in the estimate for the charge of our office to be presented to Parliament in the coming Session.

Fortieth Report (for 1892).

A new edition of the Reports of the Commission of 1818 to 1837 necessary in order to satisfy the requirements of the County Councils. Negotiations on this matter with the County Council of London.

(11.) In par. 13 of the same (our 38th) Report, we stated that while endeavouring for the present to meet these demands of the County Councils by means of these Digests, we were aware that the information thus supplied would probably fall short of the ultimate requirements of those Councils, and that there was reason to believe that those requirements could be completely satisfied only by the issue of a new edition, based upon the results of local inquiries made by us, of the Reports upon the Endowed Charities of England and Wales made by the Commission of 1818 to 1837, such as we were then about to present to the House of Commons for the County of Denbigh ; and we added that negotiations were then on foot between the Council of the County of London and the Lords of Your Majesty's Treasury for some joint provision for the cost of such a new edition of the Reports on Charities in that county.

This work, being required partly for local and partly for Imperial purposes, should be paid for partly by local and partly by Imperial funds.

(12.) In the course of these negotiations, and of the communications, partly formal and partly informal, which took place respecting them between the Treasury and ourselves, it appeared to be reasonable that, as the new editions of these Reports are required for local as well as for Imperial purposes, the cost of their preparation, including that of the requisite inquiries, should be met partly from Imperial and partly from local funds, and should not, as was done in the case of Denbighshire, be entirely charged to the Parliamentary Vote for our Commission : and, in the adoption and application to this work of this principle, we have been fully supported by the action of the Treasury.

The Charity Inquiries (Expenses) Act, 1892.

(13.) In the present case, however, a difficulty arose from the doubt whether a County Council was authorised to vote any expenditure for such a purpose as this. This doubt has now been effectually removed by the passing of the Charity Inquiries (Expenses) Act, 1892 (55 & 56 Vict. c. 15), which provides that the Council of any County or County Borough may, if they think fit, pay or contribute towards the expenses of any inquiry conducted by the Charity Commissioners into any Charities which are by the trusts governing their administration expressly appropriated in whole or in part for the benefit of their County or County Borough, or of any part thereof ; and that the payment or contribution may be made out of the County Fund, or in the case of a County Borough out of the Borough Fund or Borough Rate.

Effect of this Act.

(14.) The passing of this Act removes any legal or technical difficulty which may previously have interfered with the due carrying into effect of our proposal, agreed to by the London County Council, that the expenses of this work should be shared between the Imperial and Local Authorities ; and we now await only the approval of the Treasury to the employment by us of the additional staff which we consider to be necessary for the proper performance of this work.

Forty-first Report (for 1893).

(8.) In pars. 10 and 11 of our 38th Report, we stated that the County Councils throughout England, with but few exceptions, had addressed to us various requests for information as to the history or the administration of local Charities, and that in dealing with these demands we had met the requirements of the Councils in part by undertaking to furnish, to each County Council making a definite request by resolution, a Supplementary Digest of those Endowed Charities, in the County, the particulars of which are recorded in our books, but are not recorded in the General Digest of Endowed Charities in that county.

Applications by County Councils for information, and mode of dealing with those applications.

Supplementary Digests.

(9.) During the years 1890, 1891, and 1892 Supplementary Digests of Endowed Charities in the following counties were compiled by us at the request of the several County Councils, and were presented to the House of Commons in compliance with Orders of the House, viz. :—

Number of Supplementary Digests completed in the years 1890, 1891, and 1892.

Anglesey,	Monmouth,
Buckingham,	Northampton,
Cambridge,	Nottingham,
Chester,	Oxford,
Cornwall,	Somerset,
Cumberland,	Stafford,
Derby,	Suffolk,
Essex,	Surrey,
Hereford,	Warwick,
Huntingdon,	York (West Riding).

(10.) During the year 1893, similiar Digests have been prepared and presented to the House of Commons for the following counties, viz. :—

Number prepared during 1893.

Berkshire,	Leicester,
Gloucester,	Wilts,

and similar Digests are either completed, or in an advanced stage of preparation, for the counties of—

Devon,	Lincoln,
Dorset,	Salop,
Kent,	Sussex.

A new edition of the Reports of the Commission of 1818 to 1837 necessary in order to satisfy the requirements of the County Councils.

Negotiations on this matter with the County Council of London.

(11.) In par. 13 of the same (our 38th) Report, we stated that, while endeavouring for the present to meet these demands of the County Councils by means of these Digests, we were aware that the information thus supplied would probably fall short of the ultimate requirements of those Councils, and that there was reason to believe that those requirements could be completely satisfied only by the issue of a new edition, based upon the results of local inquiries made by us, of the Reports upon the Endowed Charities of England and Wales made by the Commission of 1818 to 1837, such as we were then about to present to the House of Commons for the County of Denbigh ; and we added that negotiations were then on foot between the Council of the County of London and the Lords of Your Majesty's Treasury for some joint provision for the cost of such a new edition of the Reports on Charities in that county.

The Charity Inquiries (Expenses) Act, 1892.

(12.) The Act of Parliament which authorises Local Authorities to vote expenditure for this purpose is the Charity Inquiries (Expenses) Act, 1892, which provides that the Council of any County or County Borough may, if they think fit, pay or contribute towards the expenses of any inquiry conducted by the Charity Commissioners into any Charities which are by the trusts governing their administration expressly appropriated in whole or in part for the benefit of their County or County Borough, or of any part thereof ; and that the payment or contribution may be made out of the County Fund, or in the case of a County Borough out of the Borough Fund, or Borough Rate.

Object of the Act.

(13.) Until this Act was passed, it was, to say the least, doubtful whether a Council was authorised to vote any expenditure for such a purpose as this. And as the purpose, namely, to obtain the most complete and recent information as to the value, condition, and administration of all local endowments subject to the provisions of the Charitable Trusts Acts is not less a local than an Imperial purpose, it is evidently reasonable that the cost of it should be capable of being met, in part at least, from local funds, and should not, as was done in the experimental case of Denbighshire, be entirely charged to the Parliamentary vote for our Commission. And it was, accordingly, the object of the Act to remove all doubt as to the capacity of the Local Authority in Counties and County Boroughs to incur this cost.

(14.) It will be observed that the Act provides that the Local Authority may either pay the expenses of an inquiry, or may contribute towards those expenses ; and it may be useful to explain to what extent our procedure in the matter is affected by the readiness of a Council to pay the whole, or their willingness to pay only a part, of the expenses, and what benefit the locality obtains by paying the whole.

Procedure under the Act. Reasons why this work cannot be performed by the ordinary staff of the office.

The ordinary staff of this office is, at the present time, barely sufficient to discharge, with even moderate despatch and regularity, the continuous duties imposed upon it by the Charitable Trusts Acts and other more recent Acts of Parliament. We have recently had occasion to estimate that the number of Charities subject to our jurisdiction under these Acts, or some of them, exceeded 60,000 ; and that the number of new Charities annually created by deed or will, and subject wholly or partially to that jurisdiction, averages not less than 500, of which more than one-half impose by their creation a permanent and regular addition to our work and that of our subordinate officers (*see* par. 6). To this normal cause of steady and continuous increase of ordinary work must be added the growing interest taken by Parliament and Local Authorities in the condition and administration of these Charities, to which, and to its effect in materially enlarging our sphere of action and otherwise adding to our work and that of our staff, we have more than once recently directed attention (*see* 38th Report, par. 9 ; 39th Report, par. 6 ; and 40th Report, par. 5).

We have during recent years endeavoured, and not unsuccessfully, to meet this increase of work by improvements in the organisation of our staff (*see* par. 5). But it should be understood that we have now well-nigh reached the limit within which this is possible ; and that it is absolutely impossible for us to undertake such a work as an Inquiry and Report upon Endowments under the provisions of the Charity Inquiries (Expenses) Act, 1892, by means of our ordinary staff of clerks and Assistant Commissioners. It is, therefore, necessary that, whenever a Council desires to have an Inquiry under the Act into the Charities of its local area, application should be made to the Lords Commissioners of Your Majesty's Treasury for a temporary increase of our staff.

Consequent difference of procedure when the local authority pays the whole, and when it pays only part of the expense under the Act.

(15.) We have made arrangements with the Treasury, whereby, if a Council is willing to pay, in such manner as to prevent an excess upon our estimate for the current financial year, the whole of the expenses of an Inquiry and Report under the Act, advances may forthwith be made from the Parliamentary vote for our Commission, to be eventually recouped by the Council, to enable us to employ and pay the salaries of the necessary additional staff and the other expenses, such as advertisements and printing, which must be incurred. And, in this case, the

Inquiry can be begun almost immediately after the Council has passed the resolution required by the Act. But, if a Council proposes to pay only a part of the expenses, it is not only necessary that the Lords Commissioners of the Treasury should, in that case, determine how much of those expenses it is reasonable, regard being had to local circumstances, to require the locality to pay, but also whether, regard being had to the requirements of the public service, as shown in the estimates for the current, or the ensuing, financial year, provision can forthwith be made for such a charge upon the Parliamentary vote for this Commission.

In the cases of this kind which have hitherto occurred under the Act, it has been the practice of the Treasury to require that one-half of the expense should eventually be recouped by the Council, the whole of that expense being meantime advanced out of the Parliamentary vote. And it does not appear to be probable that the Treasury, having regard to the other exigencies of the public service, will be able to sanction the undertaking by us of more than three or four of these Inquiries at the same time.

The practical result, then, is this: that if a Council is willing to pay the whole of the expense, the county, or county borough, can have their Inquiry at once; but if a Council is not prepared to pay the whole the locality must await its turn.

Course taken when a local authority applies for an Inquiry.

(16.) Accordingly, when we receive from any Council a communication, asking whether an Inquiry and Report under the Act can be made in the locality, we explain to them this difference of procedure, informing them that, if they are prepared to pay the whole of the expense, we can begin the Inquiry at once; but that, if they only propose to pay a part, they must address the Lords Commissioners of the Treasury on the subject, with a view to the determination by their Lordships of the proportion of the expense which is to be charged respectively to Imperial and Local Funds, and of the time when the work can be undertaken. At the same time, we inform the Council of the probable cost, so far as we are able to estimate it, of the whole work.

Appointment of temporary Assistant Commissioners for the purposes of the Act.

(17.) If, as the result of this communication, the Council resolves to pay the whole of the expense, or if, in the other event, as the result of the communication with the Treasury, the Treasury authorises the payment of part of the expense from Imperial Funds, and the commencment forthwith of the Inquiry, we then proceed, as soon as we have received the formal resolution of the Council under the Act, to appoint one or more temporary Assistant Commissioners, barristers, who hold a public sitting, in every parish within the county, whether known to possess endowments of this kind or not, or in one or more convenient or central places in the county borough, for the purpose of ascertaining what charities of this kind exists there, and of obtaining full particulars of their history, condition, and administration.

(4.) MODIFICATION OF THE TRUSTS OF CHARITIES REGULATED BY STATUTE.

Thirty-seventh Report (for 1889).

Charities regulated by Statute.

(17.) Our attention has of late been directed with increasing frequency to the inconvenience, and even hardship, to which persons interested in Charities established or regulated by private or local Acts of Parliament are subjected, by the necessity for a recourse to Parliament to effect any, even the most trivial or most necessary, modification in provisions thus possessing statutory sanction. It is most frequently in the case of Charitable Trusts established or regulated by Enclosure Acts that these difficulties arise. The circumstances in which those Acts were passed have in many cases been materially changed in the lapse of time; and in some cases, where population has become dense, the value of the land awarded by the Acts has been greatly enhanced.

Proposed Amendment of the Charitable Trusts Acts.

The cost of obtaining a private Act of Parliament, and the difficulty of passing through Parliament, as a public Act, a Bill embodying a Scheme of our Board, approved under the provisions of the Charitable Trusts Act, 1853,* alike prohibit a recourse to special legislation in these cases. With the view of obviating the inconvenience and loss caused by the special disabilities to which Charities of this class are subject, Your Majesty's Government included, in the Bills proposed by them to Parliament in the years 1881 and 1883 for the amendment of the Charitable Trusts Acts, a provision for removing this disability, based upon precedents furnished by clauses then lately introduced into certain private Acts of Parliament regulating Charities. This provision, in its ultimate form, constituted Clause 5 of the Bill of 1881, as amended in the House of Lords, and Clause 4 of the Bill of 1883, and was as follows:—

> "Any provisions relating to a Charity contained in any Act of Parliament establishing a Scheme approved and certified by the Board under section 54 and the following sections of the Charitable Trusts Act, 1853, or in any Act of Parliament other than a public general Act, may be from time to time amended or altered by a Scheme of the High Court of Justice, or of the Board in the exercise of its ordinary jurisdiction, as effectually as if the trust created by, and the provisions contained in, such Act had been established by the founder in the case of a Charity having a founder."

Neither of these Bills became law; but this clause, as forming part of the Bill of 1883, was the subject of inquiry by a Select Committee of the House of Commons, which reported in the year 1884 in favour of that Bill.†

It will be seen that the purport of the proposed enactment is to bring Charities established or regulated by Statute within the operation—from which they have been thus excluded—of the doctrine of *cy-près*, to which all other Charities are subject. It is to be noted that all proceedings to be taken under such a provision, if it should become law, for the establishment of a Scheme by our Board, could be initiated only upon the applications required by the existing law as a foundation of the like jurisdiction in the case of other Charities.

We entertain the hope that, in view of the increasing urgency of the difficulties which it is thus proposed to remedy, Your Majesty's Government may find it practicable to propose to Parliament this amendment of the law.

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* 16 & 17 Vict., c. 137, ss. 54–60.

† Report of Committee, Evidence, Q. 688–90, 1316–21. House of Commons, 1884, 306.

(5.) DOLE CHARITIES.

Fortieth Report (for 1892).

* * * * * * * * * * *

Necessity for improved administration of Dole Charities.

(16.) It may be stated with some confidence that there is no point within the range of the jurisdiction of our Board towards which our attention is more generally and more constantly directed, in framing schemes for the improved administration of charitable endowments, than to the improved application of funds distributed in precarious and isolated gifts to the poor, whether in money or in kind; in other words, in "Doles." It is not within our present purpose to insist upon the mischief and waste incident to this form of eleemosynary gift. This topic has been the subject of frequent observation in our previous Reports;[c] and at the present day it has come to be one upon which, in the abstract, at least, public opinion is all but unanimous. It will be sufficient here to note some indications of authoritative opinion adverse to the distribution of Doles. Of this opinion an instance is furnished by the inclusion of Doles in the list of purposes enumerated in Section 30 of the Endowed Schools Act, 1869 (32 & 33 Vict. c. 56), from which endowments are by that enactment authorised to be diverted to educational objects. Again, it is to endowments applied in Doles that the provisions of the Allotments Extension Act, 1882 (45 & 46 Vict. c. 80), s. 4 are exclusively directed. The Select Committee of the House of Commons, which reported in the year 1884 upon the working of the Charitable Trusts Acts, dwelt at length, and in terms of approval, upon the steps taken by our Board to bring about an improved administration of charitable endowments applied to Doles. But no statement of the tendency of authority in this direction would be complete without a reference to the weighty and emphatic condemnation of Doles by the late Sir G. Jessel, when Master of the Rolls, in his judgment in the case of the Campden Charities at Kensington (Law Reports, 18 Ch. Div. p. 310), some account of which is given in our 29th Report (for 1881), pages 9, 10.

Judgment of the late Sir George Jessel.

Changes of circumstances necessitate new provisions.

(17.) Following the example set in more recent times by the Court of Chancery, and fortified by the high authority of this judgment, we have, for many years past, made it our first object, in framing *cy-près* schemes for Dole charities, to prescribe such an application of their funds as may tend, in some degree, to confer real and lasting benefits upon the poor, consistently with a due regard for the main intention of the founders of those charities. We conceive, and in this view we have the support of the highest authority, that the particular directions of a founder, for the distribution of funds in the form of Doles, are but means to the general end of benefiting the class of poor sought to be helped; and that subsequent changes (to use the language of Sir G. Jessel in the course of the above-mentioned judgment) in the value of the endowments, in the circumstances of the locality within, or of the population for the benefit of which, the charity is administered, in the times, in the habits of society, or in the ideas or practices of men, are sufficient to justify the substitution of other and improved means for the attainment of the object proposed.

Two-fold object of these new provisions, viz; (*a*) Encouragement of providence and thrift; (*b*) Aid in times of special need.

Provisions for encouraging providence.

(18.) In framing schemes providing for an improved administration of Dole charities we have endeavoured to keep in view a two-fold object; *first*, the encouragement among the poor of habits of providence, thrift, and self-help; and *secondly*, the concentration of these endowments upon assistance to the poor, at the times of their special and certain need, namely, in sickness and in old age. We have sought to secure the first of these objects by authorising the application of Dole funds in aid of provident associations for the benefit of the poor, as well as directly in augmentation of their sufficiently secured savings. This object has also, we believe, been furthered by provisions restricting certain definite and recurrent forms of relief, such as payments to almspeople and pensioners, to those who for a fixed period antecedent to the grant of aid have not been in receipt of Poor-law relief. In this particular we have again followed the example of the Court of Chancery which, by some of its schemes, has gone so far as to constitute any previous receipt of Poor-law relief a disqualification for participation in permanent benefit from an eleemosynary charity.

Provisions for aid in sickness.

(19.) In our endeavours to restrict the benefit of Dole Charities, as far as may be, to need caused by sickness and old age, besides making the provisions already referred to for assistance to provident clubs (in which sick clubs are, of course, included), we have dealt with the case of sickness by authorising contributions to the support of hospitals, whether general or special, or of dispensaries, by making provision for the establishment and maintenance of cottage hospitals, and by sanctioning payments for the maintenance of parish nurses, or for providing nursing assistance to the poor in other ways.

And especially for supply of nurses.

(20.) Before passing to the question of the application of Doles towards need caused by old age, it may be well to mention, in connection with aid rendered in sickness, that our experience shows that no form of relief is more readily appreciated and welcomed as a substitute for Doles than their application to the supply of nurses for the poor. We have reason to believe that the application of Dole funds to this purpose, so far as we have been able hitherto to promote it, has been the means of rendering valuable aid to the voluntary efforts now widely made throughout the country to supply the poor with the help of nurses in sickness. It is obvious that the permanence which attaches to aid so rendered by the funds of an endowed charity must render it specially effective as a help to the efforts in this direction of private charity. In view of the difficulties and opposition which so constantly beset our efforts to improve the application of Dole Charities, it is satisfactory to find that the efforts which we are thus able to make, in the line of least resistance, are productive of real and lasting benefit to the poor.

Provisions for aid in old age.

(21.) The subject of aid to those of the poor who are incapacitated by old age from maintaining themselves is one to which public attention has of late been so largely directed, that it will not be out of place to review the course which, for many years past, we have followed in promoting the application of the funds of eleemosynary charities to this necessary head of relief. It is almost exclusively in the case of the poor disabled by age that the strict administration of the Poor Law, essential as it is to the ultimate security of the State, is felt to work, in certain cases, an undeserved hardship. Opinions differ, and will continue to differ, as to the degree in which this hardship actually prevails; but its existence, in some measure or other, is not denied by the advocates of Poor-law administration in its most rigid form. Here, again, the permanence of Endowed Charities has rendered them specially effective in meeting, in the interests alike of the State and of the poor, this particular want. There can be no doubt that much has been done in the past to relieve the deserving poor in old age, both by the endowed almshouses with which, through the liberality of founders, urban and rural districts have been abundantly though unequally furnished, and also by the far more rare endowments originally applicable to the supply of what may be termed outdoor stipends or pensions. Pensions of this nature have for some time past been multiplied by the application to that purpose, by schemes established by the Court of Chancery, and in later times by our Board, of the funds of almshouse charities not required either to meet the original objects of the foundation or for the supply, where expedient, of additional almshouse accommodation. The proceeds of the sale of insufficiently endowed almshouses have also been in some cases applied to the same purpose.

Almshouses and Pensions.

Comparative advantages of Almshouses and Pensions.

(22.) These two forms of relief, namely, almshouses and pensions, are well fitted to meet the needs of the poor in old age; and it is unnecessary here to enter further into the question of their comparative advantage, than to say that while, on the one hand, an almshouse, in which proper supervision and attendance are available, seems to be best

[c] 16th Report, pp. 5 and 6; 20th Report, p. 6; 23rd Report, p. 5.

best fitted for the relief of those who have no relatives capable of rendering them assistance, or who are wholly disabled, relief by means of pension, on the other hand, gives more scope for the care of the aged poor by their families, and for enforcing those obligations to contribute to the support of relatives, the fulfilment of which is an obvious condition of all relief.

Almshouses should be sufficiently endowed.

(23.) It is to be noted, however, that the foregoing observations apply only to sufficiently endowed Almshouses. In many rural parishes, cottages, for the most part in a state of dilapidation, if not almost a ruin, bear the name of Almshouses, though no funds are attached to them for the payment of stipends to the inmates, or even for the repair of the fabric. To place one of the aged poor in such a house, and, as is most commonly the case, without ensuring the supply, from whatever source, of an adequate maintenance, would seem to be to give the inmate some authority for living on precarious alms, and to stereotype a condition which it should be the object of the Poor Law and of Endowed Charity to improve, by the supply of an adequate and fixed maintenance from the one or the other.

Application of Doles to educational purposes.

(24.) Prior to the passing of the Endowed Schools Act, 1869, public attention had not been specially directed to the application, on any general principle, of Dole funds, to purposes of greater benefit to the poor. It has already been mentioned that, by section 30 of that Act, funds, applicable, among other purposes, to the distribution of Doles in money or in kind, were made capable, under certain conditions, of diversion to educational purposes. In 1874 the jurisdiction conferred by the Endowed Schools Acts was transferred to our Board. At an early period in the course of the exercise by us of that jurisdiction, we formed the opinion that the mischief incident to the distribution of Doles might be still further diminished, and substantial benefit conferred upon the poor, if powers, similar to those thus given in respect of educational purposes, were conferred upon us for the appropriation of Dole Charities to other purposes, differing, in most cases less widely, and in no cases more widely, from those of their foundation than the educational purposes contemplated by the Endowed Schools Acts.

Recommendation of Twenty-third Report for extension of this application to non-educational purposes.

(25.) It was in these circumstances that we reported as follows to Your Majesty in page 5 of our Twenty-third Report (for 1875) :—"By virtue of the powers conferred upon them by the Endowed Schools Act, 1869, the Commissioners can, with the consent of the Trustees, apply endowment of this kind (that is, Dole Charities) to the purposes of education ; but with this exception, they have at present no powers which would enable them to meet the wishes of any locality for a more advantageous disposal of funds so often found to be useless and even mischievous in their present mode of application. Great advantage would often arise from the exercise of such powers, by means of which, without so complete a change in the objects of the trust as is involved in the devotion of the funds wholly to education, useless or mischievous Dole Charities might be utilised for objects conducive to the material and moral well-being of the poor."

Provisions for giving effect to this recommendation introduced into Bills in Parliament.

(26.) It was in pursuance of the suggestion thus made, that there was inserted in a Bill for the amendment of the Charitable Trusts Acts, introduced into Parliament in 1878 by the Government of the day, a clause providing for the application of Dole funds to improved eleemosynary purposes, including the establishment of Pensions. This clause was repeated in similar Bills introduced in the years 1881 and 1883. None of these Bills, however, passed into law, and we therefore deemed it to be our duty to use every effort, within the narrow limits of our powers of establishing *cy-près* Schemes for the administration of Dole Charities, to promote the change which we had thus recommended. These proceedings have, as was to be expected, been encountered at the outset by frequent opposition ; and the difficulties of concentrating upon the relief of the sick and aged funds hitherto distributed indiscriminately and to little good purpose among the poor of the parish, have been manifold and persistent ; though it is found that the working of an improved system of administration, when once established, is mostly free from friction and discontent In the course, however, of the last 15 years a system of pensions has been thus established in many parishes throughout the country, and a substantial addition has been made to the funds directly available for the relief of the aged poor.

Probable amount of Endowment applicable in England and Wales to relief of the aged poor.

(27.) It may be convenient here to state what is known as to the amount of the funds of Endowed Charities applicable directly or indirectly to the purpose of relief to the aged poor as a class. The General Digest of Endowed Charities in England and Wales, which was completed in the year 1874, and was based upon information, the date of which varies in different counties from 1863 to 1871, showed that the yearly sum of no less than 552,000*l.* was then applicable to the support of Almshouses and Pensioners, while the sum of 384,000*l.* was applicable to the distribution of gifts in money or kind or to the general uses of the poor. It may probably be assumed that a considerable part of the latter sum has since that date been made applicable to improved purposes for the benefit of the poor, and among others to the establishment of pensions. As many of the Schemes by which this change has been effected leave to the Trustees a choice in the distribution of income between pensions and other improved forms of application. an examination of those Schemes does not enable us to state the amount now applied under their provisions to the purposes of pensions. It is probable, however, that with the view of co-operating, as far as may be, with the Royal Commission recently appointed to inquire into the subject of relief to the aged poor, we may be able to obtain further and more definite information on a subject of such immediate interest.

Meanwhile, it is to be noted, with reference to the amounts stated above, that, while they are liable to reduction in the result of the depreciation of agricultural property and the lowering of the rate of interest upon Government Stock, an increase has probably taken place, in at least an equal degree, by means of newly-founded Charities, and by the rise in the value of urban property.

Instances of mischievous and wasteful Dole Charities.

(28.) This notice of the progress which has been made, in the direction of utilising Dole Charities for the special purpose of relief to the aged poor, may perhaps be fitly concluded by a mention of some typical cases showing that Dole Charities still exist in their most mischievous and wasteful form, and that a wide field is still open for further exertions in the direction in which beneficial progress has already been made.

In three parishes in one of the Midland Counties it is found that a distribution of Doles is carried on to an extent which seems to exclude discrimination in the application of the funds, while the amount given to each recipient, even where not infinitesimal, is such as to be practically valueless.

In Parish A., out of a population of 1,090, 499 persons (including 224 children) received in 1891 relief at an average rate of 2*s.* per head, the highest amount given to an individual being 2*s.* 6*d.*

In Parish B., out of a population of 2,250, relief was in 1892 granted, directly or indirectly, in respect of no less than 1,084 persons, including, as in the former case, children. The average receipt per head was 7¼*d.*

In Parish C., out of a population of 3,055, Doles were received in 1891 by 1,207 persons, of whom 729 were children receiving 1*d.* apiece. Three heads of families received 1*s.* 1*d.* or 1*s.* each ; but, with this exception, 10*d.* was the maximum amount awarded to a family. The average amount received per head was somewhat less than 2¾*d.* In this case it is understood, though we have not yet received the official accounts for 1892, that in last year 1,500 persons shared in these Doles, receiving, therefore, an average amount of 2*d.* each.

It thus appears that in these three parishes relief is received by or in respect of a number of persons which bears to the whole population the following proportions respectively, viz :—

In Parish A., 49 per cent.
„ B., 48 „
„ C., 39 „ (or in 1892, 50 per cent.)

The striking contrast which these figures present between the value to the poor, on the one hand, of relief scattered broadcast and indiscriminately, and, on the other hand, of the concentration of the same funds upon selected cases of need caused by sickness or old age, is one which any comment would tend only to weaken.

(6). REPRESENTATIVE TRUSTEES.

Fortieth Report (for 1892).

(29.) Public attention has of late been not infrequently directed, in Parliament and elsewhere, to the principles to be observed in the reconstitution, especially by our Board, of the bodies of Trustees of Charities. It may therefore be of interest to trace the gradual progress, during the 40 years which have elapsed since the establishment of our Board, of the development of this branch of our work under the Charitable Trusts Acts, with special reference to Charities administered for the general benefit of a particular locality.

Principles to be observed in reconstruction of bodies of Trustees of Charities.

It may be stated broadly that, down to very recent times, if not to the present day, the tendency of founders of Charities has been to direct the renewal by co optation of the bodies of Trustees which they have constituted, except so far as those bodies have been in part composed of *ex-officio* members, *e.g.*, in the case of Parochial Charities, the Incumbent and Churchwardens, and, in some cases, the Overseers of the Poor. In the case of Charities possessing an endowment of but trifling amount, co-optation is less frequently directed, and *ex-officio* Trustees have been often exclusively designated by founders. In a few cases, chiefly of somewhat ancient date, a mode of choosing Trustees by inhabitants of a Parish variously described as "chiefest" or "most substantial," or in equivalent terms, has been prescribed in instruments of foundation in such a manner as often to lead, in course of time, to an election by the Parish Vestry. Such trusts as these form, no doubt, the germ of the modern system of popular representation as applied to the constitution of bodies of Charity Trustees.

These bodies chiefly renewed in former times by co-optation.

(30.) It is not too much to say that, at the date of the passing of the Charitable Trusts Act of 1853, the Trustees of all Charities, where not holding office *ex-officio*, were, with the rarest of exceptions, appointed by co-optation. The objections to this system of exclusive co-optation, uncontrolled as it was at that time in any degree by a central authority, are thus summed up by us in our 20th Report:—"Powers are still in force, under many Trusts, "for the continuing Trustees to co-optate or elect others into their body without the publication of notice, or the "knowledge even of other parties, and at an expense, moreover, which is both difficult of control and wholly "unnecessary." With the latter of these objections, namely, that of the score of expense, it is beyond our present purpose to deal here at length but, before dismissing it, we may observe that, where Charities are regulated by Scheme, appointments are simply and inexpensively effected, and a recourse to the cumbrous and costly process of a transfer of the Trust property, by deed and otherwise, to new Trustees is obviated, by the agency of our Official Trustees. In the case of Charities not so regulated, Trustees frequently avail themselves of the powers of our Board to procure the appointment of new Trustees in a similar manner. But in spite of our persistent efforts to check the expenditure of Charity funds on appointments of Trustees by deed (an expenditure which the powers possessed by our Board, and the constitution of our Official Trustees, render now absolutely unnecessary) cases still occur in which recourse is had to a procedure for the appointment of co-optative Trustees which often tends to impoverish the Charity without any corresponding benefit. In a case which has come before us during the past year, a charge of little less than 100*l.* had been thus needlessly imposed upon a group of Charities in one of the poorest districts of London.

Objections to this system as summarised in the 20th and 26th Reports.

The following passage in page 5 of our 26th Report may be cited in reference to this question:—

"It appears to us that a restriction should be placed on the wanton expenditure of Charitable Funds which is "involved in appointments made under special powers by deed * * * * The objections commonly offered, hitherto "successfully, to the imposition of the restrictions which we have thus suggested upon what may be termed *private* "appointments of Trustees of Charities, appear to arise for the most part from an imperfect appreciation of the "essentially *public* nature of Charitable Trusts. The term 'charity' in its legal sense has been judicially defined "to be a general public use, and it is to be borne in mind that it is in virtue of this public character of charitable "foundations, that the power of making a perpetual disposition of property, which the law denies to a private "owner, is upheld exclusively in their favour."

(31.) The principle of publicity in the appointment of Charity Trustees was recognised by the Charitable Trusts Act of 1860, by Section 6 of which it was provided that no Order should be made by our Board, appointing or removing a Trustee, before the expiration of one calendar month after public notice of the proposal to make such Order should have been given. By means of this provision, limited as it is to cases in which applications were made to us (mostly by the continuing Trustees) for the specified Orders, and also by adopting the practice of giving the like publicity to the notices issued as a condition of our approval of co-optative appointments, whenever that approval was required by Scheme established under our jurisdiction or that of the Court of Chancery, we gradually secured publicity for a considerable proportion of the appointments of Trustees made, either by direct co-optation, or at the instance and on the recommendation of continuing Trustees, and thus co-optative in their origin. This first step towards bringing public opinion to bear upon the constitution of bodies of Trustees administering charitable, and therefore public, trusts, led, by an almost necessary sequence, to a demand for the appointment of Trustees on a representative principle. The publication of the proposed appointments of Co-optative Trustees frequently awakened public interest in a matter hitherto remote from general observation or discussion, and produced counter-suggestions for the appointment of persons selected by the votes of a public meeting of the inhabitants of the locality interested in the Charities, or otherwise. In the result of our consideration of the various proposals thus brought before us, the proposed lists of Trustees, co-optatively suggested, have frequently been modified, and a quasi-representative element has thus been introduced, for the time, into bodies of Trustees.

Improvement effected by Charitable Trusts Act, 1860, in giving publicity to appointments of Trustees.

Consequent demand for appointments on representatative principles.

(32.) Meanwhile proposals were made by Your Majesty's Government, acting on the suggestions submitted in our Annual Reports, already cited, in the Charitable Trusts Bills introduced into Parliament in the years 1881 and 1883, to confer upon all charities without distinction the benefits of publicity and freedom from cost in respect of appointments of Trustees already secured, as we have explained, for charities specially regulated by our Orders. Neither of these Bills, however, passed into law, nor has any subsequent legislation on the subject been effected.

Attempted legislation on the subject.

(33.) Having thus failed to secure the assistance or direction of Parliament in this important branch of our work, we gradually introduced into our Schemes provisions for the appointment of Representative Trustees, founding this practice partly upon requests directly made to us from the localities interested, and partly upon experience gained, especially in the case of charities for the benefit of populous places, from the publication of notices of the proposed appointment of Co-optative Trustees.

Practical attempts in schemes to comply with this demand.

At the date of the Report, in the year 1884, of the Select Committee of the House of Commons appointed to inquire into the working of the Charitable Trusts Acts, the appointment of Representative Trustees had thus been secured in the case of numerous important charities. The mode generally adopted by us of securing representative appointments was to confer a power of appointing Trustees upon representative local bodies, *e.g.*, Vestries, Local Boards, Town Councils, Boards of Guardians, and, in the case of Educational Charities, School Boards. By this mode of utilising the procedure of existing bodies, it was found that the imposition upon the funds of Charities, often slenderly endowed, of the cost of a direct election of Trustees, might be obviated.

Recommendation on this matter of the Select Committee of 1884.

(34.) The partial development of a representative element in bodies of Charity Trustees, which had thus been gradually effected, was directly stimulated by the following recommendation of the Select Committee of 1884:—

"Your Committee, while of opinion that the powers and duties conferred upon the Commissioners may be "safely extended to Charities which have hitherto been exempt from their jurisdiction, would accompany that "extension by a more direct recognition of the wishes of localities. In the administration of Charitable Funds the "stimulus of private interest is absent, and the best available substitute for it is a direct and official responsibility to "the inhabitants of the district." (Rep. p. xi.)

Difficulty of giving practical effect to this recommendation.

(35.) We have been encouraged by this authoritative expression of opinion, and by subsequent discussions in Parliament upon the application of the system of representation to the appointment of Charity Trustees, to extend the practice of introducing a representative element into all bodies of Trustees constituted by our Schemes, in the case of Charities applicable for the benefit of the poor, or of the inhabitants generally, of a particular place. This has frequently been done in the face of considerable opposition offered by the existing Trustees and their supporters; and it has appeared to us, in view of the fact that our power to effect any change whatever in this direction is largely dependent upon the initiative of those Trustees, to be undesirable and impolitic to apply new principles to the constitution of bodies of Trustees so largely and abruptly as to deter Trustees from recourse to our jurisdiction. Our experience, indeed, shows that, however desirable, on abstract grounds, may be a large infusion of representative element, and such an element is not infrequently placed in a majority by our Schemes, yet many of the evils incident to the close constitution of a purely co-opted body of Trustees, are in practice obviated by the light thrown upon the proceedings of Trustees by the mere presence of colleagues independently appointed.

The latest development of the principle of representation in the constitution of bodies of Trustees has been the direct appointment of Trustees by meetings of inhabitants convened specially for that purpose. This step has been recommended partly by the objection entertained to the plural vote which obtains in vestry meetings, and partly, in the case of large Parishes, by a desire to secure the equal representation of each ward or district of the Parish. On the other hand this mode of election has been the subject of frequent objection on the ground of its probable expense, and we have been reluctant to adopt it in the case of Charities not substantially endowed.

Expected removal of these difficulties by formation of new local authorities

(36.) We anticipate that many of the questions which have been the subject of controversy in the course of the gradual changes, which we have here sketched, in the composition of bodies of Trustees of Charities, will be set at rest by the constitution, now apparently imminent, of District and Parish Councils. We have indeed already derived considerable assistance in this respect from the facilities for the indirect representation of large areas afforded by County Councils.

Meanwhile, in continuing our efforts to introduce a representative element into the numerous bodies of Trustees, still appointed exclusively, or with the addition merely of *ex officio* members, by co-optation, we believe that we shall best attain our object if we attempt to follow rather than to lead public opinion on a matter on which views differ widely, recognising it as the part of a non-political department, such as ours, to refrain from identifying itself with extremes of policy in whatever direction, and keeping steadily in view the principle that it is only by a conciliatory and moderate course of action that a jurisdiction dependent on an external initiative can be effectually utilised.

Undesirability of entire abolition of the system of co-optation.

(37.) The result of the efforts which we have thus made for the reconstitution of bodies of Trustees, may perhaps be summed up by saying that exclusive co-optation was formerly the rule regulating the appointment of Trustees of Charities, and that it has now almost come to be the exception. It is proper, however, to add that the object of our action in this matter has not been the abolition of all appointment by co-optation, but rather to place the administration of local Charities on a broader and more popular basis, by securing a substantial element of representation in bodies of Trustees. We attach much value to the presence, on a body of Trustees thus strengthened, of Co-optative Trustees, as tending both to ensure continuity of administration, and to secure for Charities the services of persons who are well qualified for the post, but who, for one reason or another, are not likely to seek popular election. Our experience leads us to believe that in a mixed body of Trustees, those appointed by co-optation are by no means the least regular in their attendance, nor the least efficient in the work of administration, and that they furnish an element of stability which is of much value, and which, it may be added, has been recognised in the case of other local bodies by modern legislation.

APPENDIX, No. 4.

PAPERS handed in by Sir *H. Longley*, K.C.B., 25 April 1894.

ACTS by which Powers are conferred upon the Charity Commissioners.

Charitable Trusts Act, 1853, 16 & 17 Vict. c. 137.
" " 1855, 18 & 19 Vict. c. 124.
" " 1860, 23 & 24 Vict. c. 136.
" " 1869, 32 & 33 Vict. c. 110.
" " 1887, 50 & 51 Vict. c. 49.
Charitable Trusts (Recovery) Act, 1891, 54 Vict. c. 17.

Literary and Scientific Institutions Act, 1854, 17 & 18 Vict. c. 112.
Bishops Trusts Substitution Act, 1858, 21 & 22 Vict. c. 71.
Recreation Grounds Act, 1859, 22 Vict. c. 27.
Charitable Trustees Incorporation Act, 1872, 35 & 36 Vict. c. 24.
Poor Allotments Management Act, 1873, 36 Vict. c. 19.
Commons Act, 1876, 39 & 40 Vict. c. 56.
Places of Worship Sites Amendment Act, 1882, 45 & 46 Vict. c. 21.
Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50.
Prison Charities Act, 1882, 45 & 46 Vict. c. 65.
Allotments Extension Act, 1882, 45 & 46 Vict. c. 80.
Municipal Corporations Act, 1883, 46 & 47 Vict. c. 18.
Agricultural Holdings (England) Act, 1883, 46 & 47 Vict. c. 61.
Allotments Act, 1887, 50 & 51 Vict. c. 48.
Mortmain and Charitable Uses Act, 1888, 51 & 52 Vict. c. 42.
Open Spaces Act. 1890, 53 & 54 Vict. c. 15.
Working Classes Dwellings Act, 1890, 53 & 54 Vict. c. 16.
Mortmain and Charitable Uses Act, 1891, 54 & 55 Vict. c. 73.
Technical and Industrial Institutions Act, 1892, 55 & 56 Vict. c. 29.
Public Libraries Act, 1892, 55 & 56 Vict. c. 53.
Local Government Act, 1894, 56 & 57 Vict. c. 73.

ANALYSIS of the foregoing ACTS.

1. Constitution and proceedings of Charity Commissioners:

Charitable Trusts Act, 1853, ss. 1–8.
" " 1855, ss. 2–5.
" " 1860, ss. 20–22, 24.
" " 1869, ss. 6, 8, 16.
" " 1887, ss. 2, 3.

Municipal Corporations Act, 1883, s. 8 (3).

2. Conferring on Charity Commissioners powers of inquiry, and of requiring the production of accounts and evidence:

Charitable Trusts Act, 1853, ss. 9–15, 61.
" " 1855, ss. 6–9, 44, 45.
" " 1860, s. 19.

3. Conferring on Charity Commissioners powers of advice, arbitration, and authorising acts of trustees generally:

Charitable Trusts Act, 1853, ss. 16, 23, 46, 64.
" " 1855, s. 31, 46.
" " 1869, s. 9.

Recreation Grounds Act, 1859, s. 6.
Allotments Extension Act, 1882, ss. 8, 9, 11.
Municipal Corporations Act, 1883, s. 9 (4).
Public Libraries Act, 1892, s. 16 (2).
Local Government Act, 1894, ss. 33 (7), 70 (2), 75 (2).

4. Amendments of legal procedure, and creation of summary jurisdiction over Charities:

Charitable Trusts Act, 1853, ss. 28–46, 48, 49.
" " 1860, s. 11.
" " 1869, s. 13.

5. Conferring on Charity Commissioners a control over the institution and progress of legal proceedings on behalf of Charities:

Charitable Trusts Act, 1853, ss. 17–20, 34–39, 42, 44.
" " 1855, s. 40.
Charitable Trusts (Recovery) Act, 1891, ss. 3–6.

6. Conferring on Charity Commissioners a control over dealings with the real estate of Charities:

Charitable Trusts Act, 1853, ss. 21, 24–27.
" " 1855, ss. 16, 29, 30, 32–36, 38, 39, 41.
" " 1860, ss. 15, 16.
" " 1869, s. 12.

Literary and Scientific Institutions Act, 1854, s. 6.
Commons Act, 1876, s. 19.
Places of Worship Sites Amendment Act, 1882, s. 1 (*d*).
Allotments Extension Act, 1882, s. 10.
Municipal Corporations Act, 1883, s. 8 (2).
Agricultural Holdings Act, 1883, s. 40.
Allotments Act, 1887, s. 13 (2).
Mortmain and Charitable Uses Act, 1888, s. 6 (2).
Open Spaces Act, 1890, ss. 3, 4.
Working Classes Dwellings Act, 1890, s. 1 (II.)
Mortmain and Charitable Uses Act, 1891, ss. 5, 6, 8.
Technical and Industrial Institutions Act, 1892, ss. 9 (1), 10 (1).
Public Libraries Act, 1892, s. 13 (2. (c).)

7. Provisions as to the preservation of charity property by means of—

(*a.*) The Official Trustee of Charity Lands:

Charitable Trusts Act, 1853, ss. 47–50.
" " 1855, ss. 15, 16, 37.
" " 1887, s. 5.

(*b.*) The Official Trustees of Charitable Funds:

Charitable Trusts Act, 1853, ss. 51, 52.
" " 1855, ss. 12, 17–28, 37.
" " 1860, ss. 12, 17, 18, 23.
" " 1887, s. 4.

(*c.*) The Vesting of Property:

Charitable Trusts Act, 1860, ss. 2–10.
" " 1869, ss. 4, 5, 7, 10, 11.

(*d.*) The Deposit and Safe Custody of Title Deeds and Documents:

Charitable Trusts Act, 1853, s. 53.
" " 1855, s. 42.
" " 1860, s. 19.

(*e.*) The Incorporation of Trustees:

Charitable Trustees Incorporation Act, 1872, ss. 1–12.

8. Conferring on Charity Commissioners powers for, or incident to, the removal and appointment of Trustees and Officers:

Charitable Trusts Act, 1853, s. 22.
" " 1860, ss. 2–10, 13, 14.
" " 1869, ss. 4, 5, 7, 10, 11.

Bishops Trusts Substitution Act, 1858, s. 1.
Municipal Corporations Act, 1883, s. 8 (1).
Mortmain and Charitable Uses Act, 1891, s. 6.
Local Government Act, 1894, s. 14 (1), (3).

9. Providing for the establishment of Schemes and for the application of the Income of Charities by means of—

(*a.*) Parliamentary Schemes:

Charitable Trusts Act, 1853, ss. 54–60.
" " 1855, s. 43.

(*b.*) Schemes established by the Charity Commissioners:

Charitable Trusts Act, 1860, ss. 2–10.
" " 1869, ss. 4, 5, 7, 10, 11.

Recreation Grounds Act, 1859, s. 5.
Commons Act, 1876, s. 19.
Prison Charities Act, 1882, s. 2.
Allotments Extension Act, 1882, s. 14.
Municipal Corporations Act, 1883, ss. 3, 8 (4) (5).

(*c.*) Orders made by the Charity Commissioners for the apportionment of Charities:
Charitable Trusts Act, 1855, ss. 10, 11, 13, 14.

Local Government Act, 1894, s. 75 (2).

10. Exemptions from Jurisdiction created by Charitable Trusts Acts:

Charitable Trusts Act, 1853, ss. 62, 67.
" " 1855, ss. 47, 49.
" " 1869, s. 2.

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11. Provisions as to Interpretation, Definition, Titles, Savings, &c.:

Charitable Trusts Act, 1853, ss. 66, 68.
" " 1855, ss. 1, 48, 50.
" " 1860, ss. 1, 25.
" " 1869, ss. 1, 17.
" " 1887, ss. 1, 6.
Charitable Trusts (Recovery) Act, 1891, ss. 1, 2, 7.

Charitable Trustees Incorporation Act, 1872, ss. 14, 15.
Poor Allotments Management Act, 1873, s. 16.
Allotments Extension Act, 1882, s. 15.
Municipal Corporations Act, 1882, s. 133 (2).
Municipal Corporations Act, 1883, s. 27.
Mortmain and Charitable Uses Act, 1891, s. 10.
Local Government Act, 1894, s. 14 (3).

APPENDIX, No. 5.

PAPER handed in by Mr. *D. R. Fearon*, 25 May 1894.

Official Trustees of Charitable Funds.

Regulations made by the Treasury under Section 4 of the Charitable Trusts Act, 1887 (50 & 51 Vict. c. 49).

1. These regulations shall take effect on and from 1st April 1889; and that date is hereby fixed as the date from and after which such officers of the Charity Commission as the Charity Commissioners, with the approval of the Treasury, shall have appointed, or shall appoint, for that purpose, under Section 4 (1) of the Charitable Trusts Act, 1887, shall be the Official Trustees of Charitable Funds, in lieu of the persons mentioned as such in the Charitable Trusts Amendment Act, 1855.

2. The term "securities" in these regulations includes all Government or other annuities or securities, and all stocks or shares, standing in, or to be transferred into, the name of the Official Trustees of Charitable Funds, in the books of the Bank of England, or of any other Company or Corporation; and the term "funds" includes money and securities standing or to be placed to the account, or standing in or to be transferred into the name, of the said Official Trustees of Charitable Funds.

3. All moneys to be held in trust by the Official Trustees of Charitable Funds in pursuance of the Orders of the Charity Commissioners, or of Orders of Court, or of other due authority, and all dividends and interest on securities standing in the name of the said Official Trustees, shall be paid to the cash account of the said Official Trustees at the Bank of England; and all securities to be held in trust by the Official Trustees of Charitable Funds (including such securities as may be purchased by way of investment of money standing to their account) shall be transferred to, or inscribed in the name of, the said Official Trustees in the books of the Bank of England, or other Company or Corporation in whose books such securities are registered; and the Bank of England or other Company or Corporation shall make such transfer accordingly.

4. All directions for the purchase, sale, or transfer of securities, and all orders to the Bank of England for the payment of money out of the account of the Official Trustees of Charitable Funds, shall be jointly signed by the Accountant, or, in his absence, the Assistant Accountant, and by one of the said Official Trustees, and be countersigned by one of the Charity Commissioners.

5. In addition to the separate ledger accounts to be kept in the Accountant's branch of the office of the Charity Commissioners for each charity in respect of which any funds are placed to the account or in the name of the Official Trustees of Charitable Funds, general ledger accounts shall be kept showing the aggregate amounts of the receipts, payments, and transfers of the several descriptions of funds distributed over the separate charity accounts, and of the balances thereof.

6. The business of the Accountant's branch of the office of the Charity Commissioners, in which the financial transactions in regard to the funds held in trust by the Official Trustees of Charitable Funds are conducted and recorded, shall be under the immediate control and responsibility of one of the said Official Trustees nominated for that purpose by the Charity Commissioners, with the concurrence of the Treasury.

7. Subject to anything contained in these regulations, the books and forms of account to be used in connection with the funds held in trust by the Official Trustees of Charitable Funds shall be such as may from time to time be prescribed or approved by or under the authority of the Treasury.

8. The annual account to be laid before Parliament under Section 18 of the Charitable Trusts Act, 1860, shall be prepared in such form as the Treasury may from time to time prescribe or approve.

9. No direction for the transfer of securities shall be given by the Official Trustees of Charitable Funds, except in pursuance of an Order of the Charity Commissioners, authenticated in the manner prescribed by Section 4 of the Charitable Trusts Amendment Act, 1855 (18 & 19 Vict. c. 124).

R. E. Welby.

Treasury, Whitehall, 27 March 1889.

APPENDIX No. 6.

PAPER handed in by Mr. *Douglas Close Richmond*, 4 May 1894.

Accounts of Charities.

Extracts from the Annual Reports of the Charity Commissioners.

(Third Report, 1855), page 9.

The expectation expressed in our last Report of a more general compliance with the law, which requires from all trustees of charities an annual return of their accounts, has been only partially realised.

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We have availed ourselves of every opportunity of promoting this object without causing the institution of any compulsory proceedings, being sensible of the necessity of using great consideration in the application of measures of such a character to persons discharging gratuitous and onerous duties, where there has been an absence of special reasons for imputing to them any more grave neglect of their trust. In some instances, however, during the last year we have found it indispensable to direct the institution of proceedings for the purpose of obtaining the requisite returns or other information from trustees, and they have had the effect of inducing an obedience to the law without a necessity for continuing them to any ultimate stage.

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The investigation of the accounts of which the returns have been received is prosecuted with as much regularity and expedition as the large number to be dealt with, and the difficult and complicated questions frequently involved in them permit; and this investigation has already led in very many instances to the recovery and due investment of the funds of charities, and to the rectification of errors and irregularities in their administration.

(Fourth Report, 1856), page 9.

We have continued to take every opportunity of impressing upon the trustees of charities the importance of complying with the provisions of the Act, which require regular returns of their annual accounts to be made to our office. Special requisitions are very numerously addressed to the trustees with this object, in cases in which we are made aware of the neglect of this duty.

For the reasons, however, which are adverted to in our previous Report, we are reluctant in ordinary cases to originate any harsh or compulsory proceedings against trustees personally for enforcing the transmission of these returns, in the absence of imputations of fraud or interested concealment.

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The number of accounts actually transmitted to our office (after allowing for the cases in which several charities are included in one return), is far from bearing a satisfactory proportion to the number of subsisting charities; and unless some suitable provision can be made for the local demand and collection of these accounts from the trustees, we apprehend that a voluntary and universal compliance with the requirement of the Act in this respect is not to be expected.

* * * * * *

The investigation of the accounts received, which is conducted with as much regularity as possible, continues to operate with great effect to the recovery and investment of charitable funds, and to the improved administration of the charities to which they belong.

(Fifth Report, 1857), page 5.

We have adverted in our previous Reports to the difficulty of obtaining from the trustees of charities regular returns of their annual accounts, and have stated our reasons for apprehending that in the present state of the law a voluntary and universal compliance with its requirements in this particular is not to be expected.

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It is also important that a power is at all times possessed by this board of instituting compulsory proceedings for obtaining specific accounts, where any sufficient occasion arises for the adoption of that course.

(Thirteenth Report, 1865), page 3.

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The incompleteness of these returns and the difficulty of obtaining them regularly from trustees discharging gratuitous duties, and subject to no direct penalty for omitting them, have been matter of previous observation. This circumstance would be much more important if we had not the power of instituting special and compulsory inquiry into the circumstances of every separate charity of which the management may be drawn into question.

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(Fourteenth Report, 1866), pages 5, 6.

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We have adverted in former reports to the difficulty of securing the uniform observance by trustees of the duty of making annual returns of their accounts to our office, and also the reasons for considering that no serious mischief need be apprehended from the want of complete regularity in this particular. It may, however, be useful to explain with somewhat more fulness the precise use of these returns, especially as some misapprehension may exist as to the functions of the board in this department.

We consider the returns of accounts to be of great use and importance in the following respects :—

The obligation to make such returns under liability to have that obligation enforced at all times induces accuracy on the part of administrators of charities in the discharge of their duties.

They afford the latest statistical information respecting endowments.

They are most valuable for reference in cases calling for special inquiry or intervention by the board, and it is important that all persons interested in endowments should be able to exercise their right of examining such accounts of their management.

These advantages are secured without any general examination or central audit of all the accounts in our office.

The Charitable Trusts Acts do not prescribe nor as we think contemplate such a gigantic operation, for which, moreover, the existing establishment and machinery of our office would be utterly inadequate. In all necessary cases, however, the accounts are subjected to a rigid examination under our direction.

(Eighteenth Report, 1870), page 5.

In our former Reports we have had occasion to observe at length upon the scope and operation of the provisions of the Charitable Trusts Acts relating to these returns particularly guarding the public against the assumption that it is possible for the staff of this office to subject all such returns to any effectual audit, and cautioning all the trustees or parties making them that their responsibilities connected with the trusts remain undiminished. It may be sufficient now to refer to those observations without repeating them.

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(Twenty-fifth Report, 1877), page 5.

These numbers (of returns of annual accounts of charities), however large, cannot be said to indicate a general or regular compliance by the trustees of charities with the requirements of the law in this respect.

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We have adverted in former Reports to the difficulty of securing in the present state of the law the uniform observance by trustees of this duty, and also to the reasons which have led us to consider that this enactment has, notwithstanding, been of much practical benefit to the administration of charities.

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It is, too, not unnaturally supposed by the public that the power to institute an effectual audit of accounts is implied in, or is incident to, the power to require their production, and much disappointment and annoyance is frequently caused by the discovery of the absence of any summary jurisdiction over the accounts of charities.

(Thirty-seventh Report, 1889), paragraph 14.

It has already been pointed out that it is by means of these returns of accounts that we are brought, most universally, into touch with charities throughout the country ; and the information afforded by the returns is such as to lend itself most readily to statistical arrangement. It is hoped that, by the re-organisation thus contemplated, we may be enabled not only to meet the demands made upon us for statistical information, but also incidentally to secure a more general and punctual discharge by trustees of charities of their duty of rendering accounts to our board.

It may be well, in referring to these returns of accounts, to repeat the caution, given in our former reports, to the effect that, while these and other advantages to the public are involved in their receipt by us, these advantages are in the main secured, in the words of our Fourteenth Report, "without any general examination or annual audit of the accounts in our office. The Charitable Trusts Acts do not prescribe nor, as we think, contemplate such a gigantic operation, for which, moreover, the existing establishment and machinery of our office would be entirely inadequate. In all necessary cases, however, the accounts are subjected to a rigid examination under our direction."

APPENDIX, No. 7.

PAPER handed in by Mr. *Douglas Close Richmond*, 4 May 1894.

CLASSIFIED STATEMENT of ORDERS made by the CHARITY COMMISSIONERS during a period of 10 Years, 1884–1893.

DESCRIPTION OF ORDERS.	Numbers. During the Year 1884.	During the Year 1885.	During the Year 1886.	During the Year 1887.	During the Year 1888.	During the Year 1889.	During the Year 1890.	During the Year 1891.	During the Year 1892.	During the Year 1893.
Schemes	227	233	202	181	174	257	278	260	209	307
Orders for appointment or removal of trustees, or vesting real estate, or for one or more of these purposes.	173	188	175	187	138	172	160	138	137	142
Orders certifying approval of the provisional appointment of trustees by their co-trustees or otherwise.	267	293	321	318	299	402	389	412	416	302
Authority to sell real estate, or to execute agreements for sale or conveyances.	288	263	234	227	246	248	196	236	213	255
Authority to exchange real estate*	11	6	15	12	13	8	8	11	9	13
Authority to grant building, mining, and other special leases, or to execute agreements for leases, and directions thereupon.	381	423	439	435	409	329	246	248	326	347
Authority to redeem rentcharges and other periodical payments, and to compromise claims.	37	33	21	31	12	28	27	24	36	38
Authority to purchase real estate	51	46	43	61	34	46	42	46	51	48
Authority to expend funds for the benefit of charities on improvements, buildings, or otherwise, and to raise, adjust, or discharge loans.	139	109	103	107	73	119	111	100	98	129
Authority to grant pensions or special remuneration to officers of Charities.	15	16	13	16	11	9	7	17	7	8
Opinion and advice for the indemnity of trustees in making special payments or otherwise.	11	6	15	13	8	10	3	3	6	6
Certificates authorising applications to the High Court of Justice.	31	36	22	13	19	23	24	18	14	20
Certificates authorising applications to the County Courts	–	3	–	–	1	1	–	–	–	–
Certificates to the Attorney General, with a view to the institution by him of *ex-officio* proceedings.	3	6	7	7	4	8	9	5	5	7
Applications to the Attorney General for sanction to proceedings under the Charitable Trusts (Recovery) Act, 1891.	–	–	–	–	–	–	–	–	6	11
Certificates of incorporation under "The Charitable Trustees Incorporation Act, 1872."	–	–	–	1	–	–	–	–	–	1
Certificates of exemption under Section 11 of "The Allotments Extension Act, 1882."	14	5	2	5	1	1	–	–	–	1
Orders for extension of Charitable Trusts Acts to exempted Charities.	4	1	–	1	1	–	–	–	1	6
Requisition to produce accounts and documents and to answer inquiries.	6	6	2	5	6	4	10	7	10	9
Orders for taxation of bills of costs	–	–	–	–	4	1	2	2	1	–
Supplemental Orders, by way of extension or variation of Orders of the Board, or otherwise.	34	22	35	42	41	45	62	42	64	61
Orders vesting in "The Official Trustees of Charitable Funds" the right to call for a transfer of stock.	36	52	46	38	58	58	42	40	29	35
Authority to enrol deeds, &c.	20	23	22	36	41	38	34	35	23	32
Orders authorising the transfer of stock or the payment of money to "The Official Trustees of Charitable Funds," or the investment of money by "The Official Trustees of Charitable Funds."	620	691	678	766	872	†856	†682	†704	†726	†724
Authority to sell stock held by "The Official Trustees of Charitable Funds," and to pay the proceeds of such sales of stock, and other moneys.	387	471	386	515	591	†364	†273	†355	†398	†416
For various purposes not comprised under any of the foregoing heads.	82	79	89	114	55	91	92	108	129	135
TOTAL	2,837	3,011	2,875	3,131	3,111	3,118	2,697	2,811	2,914	3,113

* The powers of the Board of Agriculture to make exchanges of Charity lands being more summary and beneficial than the powers vested in our Board for the same purposes, such transactions are most generally referred to their cognizance.

† In April 1889, Treasury Regulations came into operation whereby, in cases of sale of stock, and remittance or reinvestment of the proceeds of sale by "The Official Trustees of Charitable Funds," one Order only is required, instead of two, as formerly was the case.

It is estimated that the total number of Orders made in 1893, as shown in the above Statement, would be increased by, approximately, 500 Orders, if the practice which obtained prior to 1889 were still in force, viz.:—

Orders authorising remittance, or reinvestment	350
Orders for transfer after purchase	150
	500

In comparing, therefore, the number of Orders made in 1893 with those made in the years 1885–88, the number of Orders made in the former year must be taken at 3,613.

APPENDIX No. 8.

PAPER handed in by Mr *Douglas Close Richmond*, 4 May 1894.

EXTRACTS from the ANNUAL REPORTS of the CHARITY COMMISSIONERS relating to Technical Instruction and relations of the Commissioners with Local Authorities thereupon.

THIRTY-SEVENTH REPORT (for 1889).

Technical Instruction Act, 1889.

(Par. 22.) THE Technical Instruction Act, 1889* has a bearing upon some of our schemes, and will be carefully considered in connection with those under which such instruction is contemplated as is defined in the Act. A provision will be inserted in any such scheme for facilitating that addition to the governing body which is prescribed by Section 1 (*e*) of the Act as a condition for obtaining a grant thereunder.

Agricultural education.

(Par. 23.) During the last few years much public attention has been devoted to the question of scientific instruction in agriculture; and we have thought it our duty from time to time, as suitable opportunities occurred, to consider whether, and to what extent, we should propose to appropriate endowments to the advancement of this special branch of technical training. To speak generally, we conceive that it would scarcely be within our province to limit to one particular class of students, and in aid of one particular form of industry, endowments intended by their founders for the promotion of culture in the widest sense among all classes of persons. In this view it is not likely that we should find frequent opportunities of proposing schemes for the establishment of schools directed exclusively to the advancement of agricultural science. For the most part our policy in this matter has been to aim at securing, in a school of general instruction, that adequate provision shall be made for affording agricultural teaching to a section of the scholars. This is done by directing (*a*) that agricultural science shall be comprised in the curriculum; (*b*) that a piece of land may be held for experimental work; (*c*) that a member, or some members, of the governing body shall be appointed by recognised authorities in agricultural matters, such as the Royal Agricultural Society and the Royal Agricultural College at Cirencester. Several schemes are in progress in different rural districts for the establishment of schools on the lines just indicated.

A technical agricultural school.

(Par. 24.) An exceptional opportunity, however, has arisen in the case of the Dauntsey Charity in Wiltshire, where, through the liberality of the Mercers Company of London, a large annual endowment is offered for the express purpose of establishing and maintaining a technical school of agriculture for boys, and we have published the draft of a scheme for the constitution of such a school. If duly carried into effect, it will result in the provision of a school, almost, if not entirely, unique in this country, in that it will bring within the reach of the smaller farmers the opportunity of obtaining a complete technical and scientific training, which at existing agricultural colleges would be far beyond their means. Both in respect of course of study, and of the class of persons who may be primarily benefited by the school, this may be regarded as an attempt to reproduce in this country the *École pratique d'Agriculture* of France, in which country schools of this type, as we learn from recent Reports, are being rapidly multiplied by aid from the Ministry of Agriculture.

THIRTY-EIGHTH REPORT (for 1890).

The Local Taxation (Customs and Excise) Act, 1890. 52 & 53 Vict. c. 60.

(Par. 22.) The provision made by the Local Taxation (Customs and Excise) Act, 1890, for the distribution to County Councils of certain funds dealt with by that Act, with power to contribute the same for the purposes of technical education within the meaning of the Technical Instruction Act, 1889, has an important bearing upon our work under the Endowed Schools Acts. It has recently been announced that this provision, or its equivalent, if utilised for educational purposes, may not improbably be rendered permanent. In view of the magnitude of the funds thus made available for educational purposes, and to the degree in which secondary education, both technical and general, has been provided in schools which are within our jurisdiction, the proposed appropriation of these funds, whether in aiding existing institutions, or in founding new ones, must materially affect the fortunes of these schools, and the character of the education to be given in them. Technical education as defined in the Act, means instruction in the principles of science and art applicable to industries, and in the application of special branches of science and art to specific industries or employments. It is true that this definition is extended so as to include a large part of what is usually considered to be secondary instruction in its general sense; such as, among other things, the teaching of modern languages; but in the intention of the Act, and as a starting-point for its administration, the application of these funds is thus limited to a section only of the field of secondary education and to secondary education regarded in a particular aspect.

Appropriation of fund distributed under that Act to Counties and County Boroughs.

(Par. 23.) There is, however, evidence that a desire exists to take a wider view of the subject, and to give assistance to secondary education as a whole. In Wales, where two alternatives were given, that is to say, to appropriate this fund either in aid of secondary education generally under the Welsh Intermediate Education Act, 1889, or under the Technical Instruction Act, 1890, it is the first, and not the second, alternative that appears to be the more favoured hitherto. Even in England we have received proposals, in more than one instance, from County Councils, for the reorganisation of particular endowments within our jurisdiction in connection with grants to be made from this fund, where the institution to be aided is not exclusively employed in giving technical instruction, and is not intended so to be. Under these circumstances it appears desirable that, in any future appropriation by Parliament

* 52 & 53 Vict. c. 76.

Parliament of equivalent funds in England, the limits of appropriation should be defined so as to cover the whole field of secondary instruction suitable to the class intended for benefit, and not merely that of technical or manual instruction, however widely the term may be extended by definition.

Question as to permanence of grants made by County Councils

(Par. 24.) In the course of our consideration of proposals by County Councils under the above mentioned Local Taxation Act, the question has been raised whether it is within our power to give permanence by scheme to a grant in aid of the funds of an endowed school made by a County Council under Section 1 of the Act. It seems clear that in the existing state of the law we do not in England possess this power; but, the question having been raised, it appears desirable that some power for this purpose should be established by legislation. We suggest that County Councils may beneficially be empowered, if they think fit, to declare any annual sum appropriated from the funds in question to educational purposes to be either in whole or in part an educational endowment within the meaning of the Endowed Schools Acts. The effect of this provision would be to enable us by scheme as now under the Welsh Intermediate Education Act, 1889, subject to arrangement with the County Councils, to give to a grant of theirs the permanence necessary for insuring stability to a school, or for providing security for the repayment of a loan.

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Thirty-Ninth Report (for 1891).

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Local Taxation (Customs and Excise) Act, 1890

(Par. 50.) In our dealings with County Councils with regard to moneys placed at their disposal for educational purposes under the Local Taxation (Customs and Excise) Act, 1890 (53 & 54 Vict. c. 60), we are still checked by our inability (except in Wales and Monmouthshire) to treat as permanent endowment any yearly sum which a County Council may be disposed to vote for education under a scheme of our Board. We suggested in our last report (Par. 24) that legislation on this point would be advantageous. In the meantime all we can do in such cases is to arrange the scheme on the presumption that the County Council grant will be continued, and to leave the contingency of its withdrawal to be dealt with, if it should occur, as and when occasion arises.

Bearing of this question on proposals made by Kent, Surrey, and Sussex, for establishment of a joint agricultural college.

(Par. 51.) But we have felt ourselves justified in basing our action on the assumption that the deliberate intentions of a County Council in regard to a continuing educational grant will not be suffered to miscarry; and on this view of this matter we have entered readily into a large project promoted jointly by the County Councils of Kent, Surrey, and Sussex (East and West), for the establishment of a fully-equipped school and college of agriculture for the benefit of the three counties, the bases of the arrangement being that while a site and buildings are provided out of an ancient endowment, the entire cost of maintenance is met by funds to be provided by the three Councils. As the law stands we have no power to clothe the yearly payments from the Councils with a permanent trust for the school and college; and yet without such payments the scheme would be financially impracticable. The scheme can, therefore, be operative only if and so long as the three Councils find the necessary funds.

Aid given by the County Council of Surrey to secondary schools in the County.

(Par. 52.) Apart from the project above referred to, the County Council of Surrey have determined to aid the endowments of several grammar schools within their area by yearly grants varying from 150*l.* to 250*l.* a year, conditionally upon the due representation of the Council upon each governing body. A draft scheme is now in progress providing for the required enlargement of the several governing bodies and otherwise adapting the schools aided to the requirements of the Council in respect of the provision for scientific and technical instruction.

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Fortieth Report (for 1892).

Effect on these proceedings of the Local Taxation (Customs and Excise) Act, 1890.

(Par. 41.) The past year has been marked by an increased demand for new or amending schemes for educational endowments, and the demand seems likely to increase as the several County Councils mature their plans for the application of the money placed at their disposal under the Local Taxation (Customs and Excise) Act, 1890 (53 & 54 Vict. c. 60). The possibility of aid under that Act has opened up the prospect of a new future for many schools which have hitherto languished from insufficient endowment; and it seems likely that many of the minor grammar schools, which have hitherto escaped reform for no other reason than that their resources were too small to serve any effective purpose, may, under new schemes, become valuable centres in a system of intermediate education. Several schemes are now in progress for endowments of this type, where aid from the County Council is either promised or anticipated.

Comparison of amount applicable in England from Local Taxation Act, and from endowments to secondary education.

(Par. 42.) So long as the County Councils remain unable to insure permanence to their grants of money, it is evident that, for the provision of secondary schools, reliance must continue to be placed mainly on existing institutions, and primarily upon those supplied by endowments. It may, then, be of interest to point out that the yearly sum applicable under the Act by County Councils in England (exclusive of the County of Monmouth) is understood to be about 700,000*l.* while the gross income of the endowments in the same area, known as subject to the powers of the Endowed Schools Acts, is calculated at 697,132*l.*, and there is also property of an incalculable value in the form of sites and buildings for schools.* Thus it would seem that, in respect of local means for public intermediate education (and on the assumption that purely elementary education is not now a proper purpose for endowment) at least one-half of the whole is supplied by educational endowments lying within the scope of our jurisdiction under the Endowed Schools Acts. This fact will serve to indicate how essential it is that the work of the two agencies should be co-ordinated; and we may say for our own part that we lose no opportunity of communication with the County Councils in respect of all pending schemes, of which it concerns the Councils to have cognizance.

Preparation of Scheme for giving to the London County Council a share in the government of secondary schools in London.

(Par. 43.) In pursuance of this policy, we addressed a communication in the early part of last year to the London County Council, inquiring whether the Council would be disposed to take part in the government of a large number of secondary schools in the metropolis, which are regulated by schemes settled before the Council came into existence. Having received an affirmative answer, we have prepared the draft of a scheme, the effect of which, in combination with other schemes already approved, or in progress, will be, that the Council will be connected administratively with governing bodies having charge of 36 secondary schools in London. Whatever may be the ultimate policy of the London County Council in the matter of education, it can scarcely be doubted that, by their taking part in the management of so large a number of schools, an experience of much value and suggestiveness may be acquired.

Need for legislation, extending to secondary education the powers of the Technical Instruction Acts and giving permanence to the application to that purpose of local funds.

(Par. 44.) In our 38th Report (Par. 15), we spoke of the need of the interposition, between the local administrators of individual endowments and a central controlling department, of a representative local authority, quoting the authority of the Report of the Schools Inquiry Commission as proving the existence of that need; and we expressed the hope that, by cordial co-operation with County Councils, and with District and Parish Councils when constituted, we might derive much assistance in our work.

In the 23rd paragraph of the same Report, referring to the fund assigned to County Councils under the Local Taxation (Customs and Excise) Act, 1890, we advocated further legislation extending the appropriation, now limited to technical instruction, as defined by the Technical Instruction Act, 1889, to the whole field of secondary education, and empowering the Councils to give a permanent character to the funds so appropriated.

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* *See* the "Return of Foundations in England, &c.," ordered by the House of Commons to be printed, 4th March 1892 (No. 99).

In our 39th Report (Par. 50), we again referred to the inability of County Councils to give permanence to the grants made under the last-mentioned Acts.

Our more recent experience has tended to confirm the views thus expressed. Of the great stimulus to educational organization which may be given while enlisting county feeling in the work, the proceedings under the Welsh Intermediate Education Act are a demonstration. The same effect is noticeable also in England, though to a less extent; and while the existence in Wales of a popular movement for a general advance in education must be partly credited with the relatively greater progress which has there been made towards a completely organised system of secondary instruction, yet this of itself would have been of little avail but for special legislation, whereby the scope of the local bodies was extended beyond the limits of technical education, and a character of permanence was in all cases given to the educational machinery which it may be found necessary to establish. There are signs that in England the technicalisation of schools, which have hitherto given that sound general education, which is the basis of all proficiency, is proceeding at a rapid rate; and it is possible that it may be carried too far. To subsidise particular branches of work in a school, and to insist on the appropriation of the subsidy to those branches only, may not improbably tend to disintegrate an institution, however well organised, for the purpose of giving education as a whole, into a congeries of "classes" devoid of moral influence, and of inferior efficiency in respect of instruction. It is with the view of counteracting such a tendency that we have endeavoured to provide, as far as possible, that County Councils shall be represented on the governing bodies of those schools within our jurisdiction to which they may give aid, by Governors whose powers shall not be limited to the particular purposes for which aid is given, but who shall in each case be appointed, in common with the rest of the governing body, for all purposes of the school. We cannot, however, but hope, in view of the practical difficulties which are encountered in discriminating between technical and secondary education in connection with the action of County Councils, and of the growing opinion, authoritatively expressed, that a sound secondary education is the necessary basis of the technical instruction which it is the object of recent legislation to promote, that some amendment of the Technical Instruction Acts may forthwith be adopted which shall place the rest of England on the same footing, at least as regards the application of local funds to secondary education, as the Principality of Wales and the County of Monmouth.

Proceedings under the Endowed Schools Acts, 1869, 1873, and 1874. (Appendix B.)

(Par. 34.) The usual tables relating to our proceedings under the Endowed Schools Acts, 1869, 1873, and 1874, will be found in Appendix B. Although mere figures afford but an imperfect record of the work done, it may be noticed that the aggregate number of Schemes published, submitted to the Education Department, or approved by Your Majesty, under these Acts, during the year 1893, exclusive of all schemes under the Welsh Act, considerably exceeds the aggregate of any year since 1882. Some such result was anticipated in our last Report, in which we alluded to the quickening effect of the action of County Councils entrusted with funds for the promotion of secondary education.

In not a few instances the schemes now reported either are in substitution for schemes previously made under the Endowed Schools Acts, or have for their object the introduction into schemes so made of modifications of a character lying beyond the usual scope of amendments made under the Charitable Trusts Acts. Moreover, in pursuance of our policy of co-operation with these Councils, we have in several districts undertaken schemes in the nature of county schemes, having for their primary purpose the placing of the Council in direct connection with the endowments of the county by means of representation on the several governing bodies. A scheme of this character for London is now before the Education Department for approval; and like schemes for Surrey and the Lindsey Division of Lincolnshire have already been finally approved. Others are likely to be published very shortly, and it appears probable that before long a similar arrangement will be effected in all the English counties.

APPENDIX, No. 9.

PAPER handed in by Mr. *Douglas Close Richmond*, 4 May 1894.

SCHEMES made under Section 30 of the ENDOWED SCHOOLS ACT, 1869. (1884–1893.)

PLACE.	Name of Charity.	Application of Endowment.		Endowment dealt with.
		Prior to Scheme.	Subsequent to Scheme.	
1884:				
Bradford, York.	Crosse's Charity	Doles	Scholarships at Bradford Grammar School for boys from public elementary schools of Bradford.	A sum of 512*l.* 2*s.* 10*d.* stock.
Great Marlow, Bucks.	The Parish General Charity (Charity of Henry Pendleton and others).	Doles and clothing of poor.	Additions to buildings of Sir W. Borlase's School, and exhibitions for girls from public elementary schools of Great Marlow at some place of higher education.	A sum of 3,661*l.* 16*s.* 11*d.* stock.
Wallasey, Chester	Charities of Gleave, Hill, Hough, and Wotherspoon, and Briggs.	Bread for poor Doles.	Exhibitions for boys and girls from public elementary schools in Wallasey at some place of higher education.	14*l.* 6*s.* per annum.
Walthamstow, Essex	The Inhabitants' Donation Trust, and Wise's Gift.	Relief of the poor Repair of tomb.	General maintenance of Monoux's school at Walthamstow, and scholarships at the school, with preference to scholars from the public elementary schools.	130*l.* per annum. 50*l.* per annum.
1885:				
Nether Knutsford, Chester.	Antrobus' and Pigott's Charities.	Clothing of poor and apprenticing.	General purposes of the Grammar School at Nether Knutsford, with scholarships for boys from public elementary schools.	60*l.* per annum.
Leicester and Northampton.	Alderman Newton's Charity.	Apprenticing	Not more than 50*l.* a year for technical education of boys and girls at some school in Leicester, and remainder in exhibitions for boys from public elementary schools in Leicester, whose parents are members of the Church of England, at some place of higher education (one half in value of such exhibitions to be for boys from Alderman Newton's School in Leicester).	190*l.* per annum.
1886:				
London, Skinners' Company.	Hunt's Charity and Atwell's Charity.	Loans to members of the Company and pensions to decayed freemen of Company and their widows, &c.	For a middle school for girls, scholarships thereat (some for girls from public elementary schools), and scholarships at places of higher education for girls from the said middle school.	1,500*l.* per annum, and a sum of 14,000*l.*
Poulton-le-Fylde, Carleton, Lancashire.	Baines' Poor and Apprenticing Charity.	Doles and apprenticing, Carleton.	For Baines' Endowed School at Hardhorn-cum-Newton, with provision for scholarships for boys at public elementary schools in Carleton.	A sum of 200*l.*
Radford, Notts.	The Peveril property.	Repair of causeways.	Exhibitions for boys and girls of Radford at some place of higher education.	47*l.* per annum and any accumulations.
Rochester, Kent	Bridge Trust	Maintenance of bridge.	Rochester Grammar School for Girls; Rochester, Williamson's School; Maidstone Grammar School for Girls; Maidstone Grammar School.	A site for the Grammar School for Girls and a sum of 20,000*l.*
Whalley, Lancs.	Braddyll's Charity Edwards' Charity. Chew's Dole Charity, &c.	Apprenticing ditto. Doles.	General purposes of Whalley Grammar School; provision by simultaneous scheme for the school for scholarships for boys at public elementary schools in Whalley.	20*l.* 6*s.* per annum, and sums of 222*l.* 6*s.* 3*d.* cash and 468*l.* 14*s.* 2*d.* stock.

Schemes made under Section 30 of the Endowed Schools Act, 1869—*continued.*

PLACE.	Name of Charity.	Application of Endowment.		Endowment dealt with.
		Prior to Scheme.	Subsequent to Scheme.	
1887:				
Blackburn (Livesey, Blackburn, and Pleasington), Lancs.	Livesey's Charity	Apprenticing -	Exhibitions for boys and girls from public elementary schools at higher grade public elementary schools in Blackburn.	27*l.* per annum.
Coggeshall (Great and Little), Essex.	Paycocke's Charity	Doles - - -	To Governors of Sir R. Hitcham's schools at Coggeshall, on condition that Governors maintain three extra scholarships at the schools for boys from public elementary schools in Coggeshall.	A sum of 500*l.*
Coventry, Warwick -	Charities of S. Collins, sen., S. Collins, jun., J. Symcox, T. Jesson, and Sir Thomas White.	Apprenticing, doles, &c.	General purposes of the Bablake (Technical) School Foundation at Coventry.	224*l.* per annum, and sums of 1,462*l.* 1*s.* 8*d.*, and 1,200*l.* 8*s.* 2*d.* stock; and all income of Sir T. White's charity over 1,000*l.*
Lewisham, London -	Charities of W. Hull, Viscountess Falkland, J. Brooke, T. Mann, and Mary Mylam.	Doles, bread for poor, apprenticing, &c.	Grammar School for Girls at Lewisham, and scholarships in schools for girls from public elementary schools in Lewisham.	96*l.* per annum.
Probus, Cornwall -	Tredenham's Charity.	Maintenance of poor.	Probus Exhibition Fund for advancement of education of children in public elementary schools in various ways.	40*l.* per annum.
Stroud, Gloster -	Feoffees', Watts', Rev. W. Johns', Hawker's, Aldridge's Will, and Aldridge's Trafalgar Charities.	Relief of poor, apprenticing, bread, &c.	For general purposes of the Marling School at Stroud; one half or 200*l.* per annum appropriated to scholarships at the school for boys from public elementary schools.	300*l.* per annum, and a sum of 2,000*l.*
Towcester, Northampton.	Sponne's Charity -	Doles and repair of town pavement.	For the Grammar School at Towcester, with scholarships for boys from public elementary schools.	Site for Grammar School, and 50*l.* per annum.
1888:				
Bristol, Gloster - -	Loan Money and other charities.	Loans, apprenticing, doles, pump, &c.	To Bristol Grammar School on condition that certain scholarships are maintained in the school.	40*l.* per annum, and sum of 5,147*l.* cash, and 2,116*l.* stock, chiefly accumulations.
Rotherham, York -	Great Dole Charity	Doles - - -	Scholarships in public elementary schools and exhibitions at the Rotherham Grammar School for boys from public elementary schools.	100*l.* per annum.
Wigan, Lancs. - -	Pennington's Charity.	Apprenticing and doles.	Establishment of a scientific and technical department in the Grammar School at Wigan.	10*l.* per annum.
1889:				
Wigan, Lancs. - -	Bullock's and Mason's Charities.	Apprenticing and clothing of poor children.	Establishment of a scientific and technical department in the Grammar School at Wigan.	A sum of 200*l.*
Ditto - -	Molyneux's Charity.	Bread for poor -	Two-thirds for advancement of education of boys and girls at Wigan National and Blue Coat Schools, one-third at Upholland Village Boys' and Village Girls' Schools.	28*l.* per annum.
1890:				
Chipping Barnet, Herts.	Jesus Hospital -	Almshouses - -	Scholarships at Chipping Barnet Girls' Grammar School, for girls from public elementary schools in Barnet.	A sum of 1,300*l.*
Manchester, Lancs. -	Mynshull's Charity.	Apprenticing -	Scholarships tenable at some place of higher education for scholars from public elementary schools.	285*l.* per annum (with power to Governors to apply not more than 150*l.* per annum of this sum to apprenticing).

Schemes made under Section 30 of the Endowed Schools Act, 1869—*continued.*

PLACE.	Name of Charity.	Application of Endowment.		Endowment daalt with.
		Prior to Scheme.	Subsequent to Scheme.	
1891:				
None.	—	—	—	...
1892:				
Nantwich, Chester -	Consolidated Charities.	Bread for poor -	General purposes of Nantwich and Acton Grammar School.	A sum of 100*l.* from accumulations.
Sandwich, Kent -	Furnese's Charity	Doles - - -	General purposes of Sir R. Manwood's Grammar School at Sandwich, and money payments to holders of scholarships from public elementary schools who are in need of aid.	30*l.* per annum from 1896, or so soon as certain loan is repaid.
	St. Bartholomew's Hospital.	Almshouses, pensions, &c.		40*l.* per annum.
	Jarvis' Charity -	Doles - - -		15*l.* per annum.
West Leigh in Leigh, Lancs.	France's Charity -	Doles - - -	Towards cost of providing site and buildings for technical school in Leigh.	A sum of 1,000*l.* stock.
1893:				
Bristol, Gloster -	Loan Money Charity (including Sir Thomas White's Charity).	Loans - - -	For general purposes of Bristol Grammar School.	A rent-charge of 104*l.* payable every 24th year (last paid 24th August 1891); and sums of 104*l.* cash and 55*l.* 11*s.* 7*d.* stock from accumulations.
Deptford, London -	John Chester's Charity.	Original trust for apprenticing, but by usage had become attached to, and its income was treated as part of the general income of, Addey's Charity.	For general purposes of Addey's School at Deptford.	A sum of 300*l.* stock.
Upton - on - Severn, Worcester.	Hall's Charity -	Repair of bridge -	For general purposes of Hanley Castle Grammar School, with scholarships for boys from public elementary schools.	A sum of 1,200*l.* stock.

APPENDIX, No. 10.

PAPER handed in by Sir *Henry Longley*, K.C.B., 25 May 1894.

CHARITABLE TRUSTS ACTS (SCHEMES).

TABULAR STATEMENT of all SCHEMES established under the Provisions of the CHARITABLE TRUSTS ACTS between the 1st day of January 1884 and the 31st day of December 1893, and providing for the permanent constitution of a Body of Trustees in the case of Charities, not being for the exclusive benefit of any Church, Sect, or Denomination, applicable for the Benefit of places within the following Counties, viz.:—*Glamorgan*, *Norfolk*, *Nottingham*, *Somerset*, *Sussex*, and *York*.

COUNTY OF GLAMORGAN.

Parish, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	Trustees.				Observations.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	6.	7.	8.	9.
1884:			£. s. d.					
Llanharan	Howells, Richard	12 Dec. 1884	1 – 10	2	2 Churchwardens of Parish of Llanharan.	—	—	
1885:								
Llanishen, Lisvane	Lewis, Mary Morgan, Edward Lewis, Mary; and Thomas Moses	11 Dec. 1885	55 12 –	8	6 Vicar, Churchwardens, and Guardians of Poor of Parishes of Llanishen, and Lisvane, respectively.	2	—	
1887:								
Eglwysilan:								
Coedpenmaen	Recreation Ground	27 Sept. 1887	*	12	- - - - -	—	12	By this Scheme the members for time being of Local Board for Pontypridd Urban Sanitary District are appointed to be the managers and directors of the recreation ground. The number of members of the Local Board is as shown in Column 5.
1889:								
Llantrissant	Town Trust	17 Dec. 1889	14 5 –	13	- - - - -	—	13 *Nine* by persons whose names are on the Freemen's Roll; *three* by the Vestry of Llantrissant; *one* by the Cambrian Archæological Association.	

* *In this case the Charity did not possess any endowment productive of income.*

Swansea - - -	Queen-street School -	4 Oct. 1889	24 9 4	7	- - - - -	—	7 *Three* by School Board of United School District of Swansea; *two* by British and Foreign School Society; and *two* by Committee of Management of the Training College at Swansea belonging to the British and Foreign School Society.	
1890:								
Loughor - - - -	Town Trust - - -	22 Aug. 1890	43 10 –	10	- - - - -	4	6 *Six* by Vestry of Civil Parish of Loughor.	
1892:								
Laleston - - -	Bennett, Louisa Mary Ann.	26 Jan. 1892	45 11 4	7	- - - - -	3	4 *Four* by Vestry of Parish of Laleston.	
1893:								
Aberdare - - -	Mountain Ash Park, and Recreation Ground.	14 July 1893	*	15	- - - - -	—	15	By this Scheme the Local Board for the District of Mountain Ash are appointed to be the managers and directors of the recreation ground. The number of members of the Local Board is as shown in Column 5.

COUNTY OF NORFOLK.

1884:								
Buxton - - - -	Bulwer, Thomas (for Vicar and Poor).	22 April 1884	56 – –	8	2 Churchwardens of the Parish of Buxton.	6	- - - - - -	The whole income of the Charity is primarily applicable for the use and benefit of the Vicar of the Parish.
Gillingham:								
All Saints and St. Mary.	Town Lands - - -	21 Nov. 1884	81 5 –	9	5 Rector, Churchwardens, and Overseers of the Poor of the Parish of Gillingham, All Saints, and St. Mary.	4	—	
Hempton - - -	Poors' Land - - -	21 Mar. 1884	12 5 –	1	1 Incumbent of the Parish of Hempton.	—	- - - - - -	By the order establishing this Scheme two persons were appointed to act as trustees of the Charity in conjunction with the Incumbent of the Parish for the time being; but no provision was made for the appointment of their successors.
Tibenham - - -	Church Estate - -	11 Jan. 1884	61 – –	7	4 The Owner of the Mansion House of Channons in Tibenham; and Vicar and Churchwardens of Tibenham.	3	—	

* *In this case the Charity did not possess any endowment productive of income.*

TABULAR Statement of all Schemes established under the Provisions of the Charitable Trusts Acts between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

COUNTY OF NORFOLK—*continued.*

PARISH, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	TRUSTEES.				OBSERVATIONS.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	7.	7.	8.	9.
1885 :			£. s. d.					
Foulden, Northwold, Feltwell, Weeting, and Brandon.	Atmere, Edmund - -	20 Mar. 1885	25 - -	20	15 Rector or Vicar, and Churchwardens of each of the Five Parishes named in Column 1.	—	5 *One* by the Rector or Vicar, and Churchwardens of *each of* the *Five Parishes* named in Column 1.	
1886 :								
Hethersett - - -	Parochial Charities -	15 Jan. 1886	73 - -	9	3 Rector and Churchwardens of the Parish of Hethersett.	6	—	
Hevingham - - -	Bulwer, Thomas - -	10 Aug. 1886	25 14 10	6	3 Rector and Churchwardens of Parish of Hevingham.	3	—	
Kenninghall and Banham	Bowles, Mary - -	3 Aug. 1886	7 - -	6	—	6	—	
King's Lynn :								
St. Margaret - -	Cleave, William - -	8 Jan. 1886	5 - -	9	6 Vicar and Churchwardens of the Parish of St. Margaret, King's Lynn ; and Overseers of the Poor of the same Parish.	—	3 *Three* by the Municipal Charity Trustees of the Borough of King's Lynn.	
New Buckenham - -	Juby and Barber Charities, The.	23 July 1886	156 - -	8	1 Vicar of Parish of New Buckenham, or, in his absence, the officiating Minister.	3	4 *Four* by the Vestry of the Parish of New Buckenham.	
Norwich :								
St. Peter Mancroft -	Gobart, Thomas - -	30 July 1886	2 16 2	2	2 Churchwardens of the Parish of St. Peter Mancroft.	—	—	
1887 :								
Marsham - - -	Marsham Parochial Charities.	16 Sept. 1887	30 - -	7	—	7	—	
Winch, East - - -	Church and Town Lands Charity.	15 July 1887	46 10 -	9	5 Vicar, Churchwardens, and Overseers of the Poor of the Parish of East Winch.	2	2 *Two* by the Vestry of the Parish of East Winch.	

1888:							
Lopham, South	Elliott, William Branch	10 April 1888	13 11 3	4	1 Rector of Parish of South Lopham.	3	——
Swaffham	Town Estate	2 Nov. 1888	132 - -	11	3 Vicar and Churchwardens of Parish of Swaffham.	—	8 *Four* by Ratepayers of Parish of Swaffham; *four* by Urban Sanitary Authority of Swaffham.
1889:							
Barsham, East	Calthorpe's Gift	26 Feb. 1889	*	5	5 Vicar, Churchwardens, and Overseers of the Parish of East Barsham.	—	——
Shelfanger	Shelfanger Charities	28 June 1889	20 15 -	5	3 Rector and Churchwardens of Parish of Shelfanger.	—	2 *Two* by Vestry of Shelfanger.
Stokesby	Marsh Land, The	19 Feb. 1889	*	7	1 Rector of Parish of Stokesby	3	3 *Three* by Ratepayers of Parish of Stokesby, in Vestry assembled.
Thetford	Thetford School Prize Charity.	23 July 1889	*	8	——	—	3 *Three* by School Board of Thetford.
1890:							
Buckenham, New	Eldred, John	29 Aug. 1890	8 - -	7	——	3	4 *Four* by Vestry of Parish of New Buckenham.
Ormesby: St. Michael	Town Lands	7 Feb. 1890	42 15 1	9	3 Vicar and Churchwardens of Parish of Ormesby, St. Michael.	3	3 *Three* by Vestry of Parish of Ormesby, St. Michael.
Terrington, St. Clement	United Charities	15 April 1890	9 11 -	7	3 Vicar and Churchwardens of Parish of Terrington, St. Clement.	2	2 *Two* by Vestry of Parish of Terrington, St. Clement.
Wereham	General Charities	30 Dec. 1890	32 13 -	7	1 Vicar of Parish of Wereham	4	2 *Two* by inhabitants of the Parish of Wereham, in Vestry assembled.
Yarmouth, Great	Blue Coat School	20 June 1890	213 - -	9	——	5	4 *Four* by the Town Council of Great Yarmouth.
1891:							
Downham Market	Bridge Trust	24 July 1891	110 - -	4	2 Bridge Reeves, of Downham Market.	—	2 *Two* by Urban Sanitary Authority of Downham Market.
Norwich (City)	Municipal (General)	31 July 1891	4,045 6 3	15	——	8	7 *Five* by Town Council of Norwich; *two* by School Board for Norwich.

* *In this case the Charity did not possess any endowment productive of income.*

TABULAR Statement of all Schemes established under the Provisions of the Charitable Trusts Acts between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

COUNTY OF NORFOLK—*continued.*

PARISH, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	TRUSTEES.				OBSERVATIONS.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	6.	7.	8.	9.
1891:			£. s. d.					
Overstrand - - -	Poor's Land - - - -	8 May 1891	7 10 -	5	5 Vicar, Churchwardens, and Overseers of Poor of Parish of Overstrand.	—	——	
1892:								
Binham - - - -	Parochial Charities -	5 Feb. 1892	57 4 -	9	3 Vicar and Churchwardens of Parish of Binham.	3	3 *Three* by Vestry of Parish of Binham.	
Burnham Thorpe - -	Bunting, Richard - -	23 Dec. 1892	40 18 8	7	——	—	7 *Four* by Ratepayers of Burnham Thorpe; *three* by Subscribers to the School.	
Terrington, St. John -	Newcome, Rev. Dr. -	3 June 1892	5 4	3	1 Vicar of Parish of Terrington, St. John.	—	2 *Two* by Terrington, St. John, School Board.	
1893:								
Belaugh - - - -	Poor's Allotment - -	31 Oct. 1893	3 1 6	5	5 Rector, Churchwardens, and Overseers of the Poor of Parish of Belaugh.	—	- - - - - -	By this Scheme the Trustees for the time being of Green's Charity, in Parish of Belaugh, are appointed to be the Trustees of the Charity. The number of such Trustees, and their constitution, are as shown in Columns 5 and 6.
Harling, East - -	Town Lands - - -	20 June 1893	101 - -	10	3 Rector and Churchwardens of Parish of East Harling.	3	4 *Four* by Vestry of East Harling.	
Norwich (City) - -	Municipal (General) -	21 Mar. 1893	4,191 13 6	15	——	8	7 *Five* by Town Council of Norwich; *two* by School Board of Norwich.	
Swaffham - - -	(1.) Charity founded by Deed of 22nd March 1872. (2.) Accumulated Fund held by late Allotment Wardens under Inclosure Act.	21 Feb. 1893	6 10 -	9	——	—	9	By this Scheme the administration of the Charity is vested in the Swaffham Local Board of Health. The number of members of the Local Board is nine.
Winch, East - - -	Church and Town Lands Charity.	21 Feb. 1893	50 7 -	8	3 Vicar and Churchwardens of Parish of East Winch.	2	3 *Three* by Ratepayers of Parish of East Winch.	

1884:							
North Leverton and Applethorpe:							
Coates (Hamlet) -	Palmer, Elizabeth -	8 July 1884	20 – –	3	3 Vicar and Churchwardens of Parish of North Leverton and Applethorpe.	—	—
Mansfield - - -	Eight Men's Intake -	22 Feb. 1884	168 – –	17	3 Vicar of Parish of Mansfield; Chairman of Local Board of Mansfield; Chairman of Queen Elizabeth's Free Grammar School at Mansfield.	8	6 *Six* by Ratepayers of the Parish of Mansfield, rated to relief of poor at a sum of not less than 10*l.* a year.
1885:							
Beckingham - - -	Stovin, Harriet - -	2 June 1885	1 8 1	3	3 Vicar and Churchwardens of Parish of Beckingham.	—	—
1886:							
Arnold - - - -	Arnold Parochial Charities.	12 Mar. 1886	40 1 –	10	7 Archdeacon of Nottingham; Vicar of Arnold; Churchwardens of Arnold; Chairman and Vice-Chairman of Arnold School Board; Chairman of Arnold Local Board.	3	—
Edwinstowe - - -	Bellamy, John - -	15 Jan. 1886	12 – –	4	2 Vicar of Parish of Edwinstowe; Incumbent of Parochial District of Perlethorpe.	2	—
1887:							
Greasley - - -	Rolleston, Mansell, and others.	20 Sept. 1887	58 16 9	9	1 Vicar of Greasley.	5	3 *One* by School Board of Greasley; *two* by Ratepayers of Parish of Greasley.
1888:							
Hucknall Torkard - -	Byron's Charity - -	26 May 1888	157 8 –	11	—	7	4 *Four* by Local Board of Hucknall Torkard.
1890:							
Nottingham (Borough) -	Wartnaby, Barnaby -	15 Apr. 1890	85 1 –	3	—	—	3 *Three* by the Town Council of Nottingham.
Nottingham, St. Nicholas	Gregory, William - -	1 Apr. 1890	51 3 11	5	5 Rector, Churchwardens, and Overseers of the Poor of the Parish of St. Nicholas.	—	—

TABULAR Statement of all Schemes established under the Provisions of the Charitable Trusts Acts between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

COUNTY OF NOTTINGHAM—*continued.*

PARISH, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	TRUSTEES.				OBSERVATIONS.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	6.	7.	8.	9.
1891:			£. s. d.					
Markham, East - -	United Charities - -	16 Jan. 1891	49 7 4	9	6 Vicar, Churchwardens, Overseers of Poor, and elected Guardian of Poor of the Parish of East Markham.	3	—	
1892:								
Normanton-upon-Trent -	Hall, Elizabeth (for widows) - - - School Charity - - Meller, Mary - - Moreau, Peter - -	9 Sept. 1892	85 2 8	8	3 Vicar and Churchwardens of Normanton-upon-Trent.	3	2 *Two* by Vestry of Parish of Normanton-upon-Trent.	
Walesby - - -	School Charity - -							
Nottingham (Borough) -	Wartnaby, Barnaby -	15 Jan. 1892	62 1 –	5	—	2	3 *Three* by Town Council of Nottingham.	

COUNTY OF SOMERSET.

1885:								
Bath (City) - - -	Bath Puerperal, or Child Bed, Society.	10 Nov. 1885	35 7 6	6	2 President of Bath Mineral Water Hospital, and President of Bath United Hospital.	4	—	
Dundry - - - -	Parochial Charity -	23 Sept. 1885	17 10 –	6	—	6	- - - - - - -	One moiety of the income of this Charity is applicable for the repair of the Parish Church.
Wiveliscombe - - -	Consolidated Charities -	24 Mar. 1885	165 15 6	11	5 Vicar, Churchwardens, and Overseers of Poor of Parish of Wiveliscombe.	6	—	
1886:								
Merriott - - - -	Hooper, James; Gough, Robert; England, Robert.	28 May 1886	10 10 –	7	3 Vicar and Churchwardens of Parish of Merriott.	4	—	

Shepton Beauchamp -	Shepton Beauchamp Charities.	5 Jan. 1886	53 19 4	8	3 Rector and Churchwardens of Parish of Shepton Beauchamp.	5	—	
1888:								
Glastonbury - - -	Parfitt, Rev. Thomas (for benefit of inmates of Royal Hospitals or Almshouses at Glastonbury).	27 Jan. 1888	8 – –	8	3 Mayor of Borough of Glastonbury; Vicar of Ecclesiastical Parish of St. John, Glastonbury; Vicar of Ecclesiastical Parish of St. Benedict, Glastonbury.	5	—	By this Scheme the Trustees for the time being of the "Royal Hospitals or Almshouses" at Glastonbury, are appointed to be Trustees of the Charity. The number of such Trustees and their constitution are as shown in Columns 5 and 7.
Langport Eastover -	Town Trust - - -	23 Nov. 1888	167 5 6	10	—	4	6 *One* by School Board for United District of Langport and Huish Episcopi with Curry Rivell as a contributory parish; *one* by Board of Guardians of the Langport Union; *one* by Langport District Drainage Board; *three* by Vestry of Parish of Langport.	
Taunton (Borough) -	Town Charity - -	14 Aug. 1888	1,335 4 –	22	4 Constables; Senior Bailiff; and Mayor of Borough of Taunton.	14	4 *Four* by Town Council of Borough of Taunton.	
Trull - - - - -	Wyatt, John - -	5 June 1888	25 – –	5	2 Vicar of Parish of Trull; and Minister of Fulwell Chapel (Nonconformist) in Parish of Pitminster.	3	—	The chief object of this Scheme was to constitute a body of Trustees on which Nonconformity should be represented.
1889:								
Axbridge - - -	Town Trust - - -	10 May 1889	146 18 3	10	—	4	6 *Five* by Vestry of Parish of Axbridge; *one* by Archæological Society of Somerset.	
Ilchester -	Town Trust - - -	13 Sept. 1889	26 8 –	10	—	4	6 *Five* by Vestry of Ilchester; *one* by Somersetshire Archæological and Natural History Society.	
Wells (City) -	Baron, Arthur - -	7 June 1889	10 16 –	7	2 Mayor of Wells; Vicar of the Parish of St. Cuthbert in Wells.	5	—	

TABULAR Statement of all Schemes established under the Provisions of the Charitable Trusts Acts between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

COUNTY OF SOMERSET—*continued.*

PARISH, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	TRUSTEES.				OBSERVATIONS.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	6.	7.	8.	9.
			£. s. d.					
1890:								
Ilminster - - -	Parochial Charities -	28 Oct. 1890	15 - 6	10	3 Vicar and Churchwardens of Parish of Ilminster.	7	—	
Wookey - - - -	Poor's Lands - - Browning, Joan.	25 Nov. 1890	41 16 -	10	3 Vicar and Churchwardens of Parish of Wookey.	7	—	
1891:								
Bath (City) - - -	Imbecile Institution -	3 Feb. 1891	200 - -	14	—	14	—	By this Scheme the administration of the Imbecile Institution and its Endowments was vested in the Trustees of the Magdalen Hospital for Idiot Children at Bath, for the purpose of enabling the union of the two Charities to be effected. The Trustees for the time being of the Bath Municipal Charities are the Trustees of the Magdalen Hospital. The number of such Trustees and their constitution are as shown in Columns 5 and 7.
Crowcombe and Stoodleigh.	Carew's and James's Charities.	13 Feb. 1891	65 7 -	6	4 Lord (or Lady) of Manor of Crowcombe Biccombe, if of full age; and Rector and Churchwardens of Parish of Crowcombe.	2	—	A proportion of the income of the Charities (viz., 24*l.* 17*s.*) is applicable in aid of Public Elementary Schools in Crowcombe, in which religious instruction in accordance with doctrines of the Church of England is given.
Moorlinch:								
Catcott (Township) -	Catcott Educational Charity.	12 May 1891	12 7 4	5	1 Vicar of Parish of Moorlinch	4	—	
Catcott (Chapelry) -	Godfrey, Mary - -	24 Nov. 1891	28 - -	4	2 The Churchwardens of Parochial Chapelry of Catcott.	2	—	
Quantoxhead, East - -	Parochial Charities -	3 April 1891	14 18 -	5	3 Rector and Churchwardens of Parish of East Quantoxhead.	2	—	

1884 :								
Hastings (Borough) -	Magdalen Charity - Lasher, Thomas.	20 May 1884	693 6 4	15	6 Rector and Churchwardens of Parish of All Saints, Hastings, and Rector and Churchwardens of Parish of St. Clement, Hastings.	9	—	
1885 :								
Brighton - - -	Croft, Elizabeth - -	20 Feb. 1885	5 10 –	3	3 Incumbent, and the persons acting as Churchwardens of St. Margaret's Chapel, Brighton.	—	—	This Charity originated in the bequest of a sum of 200*l.* in the Will, dated 18th March 1871, of Mrs. Elizabeth Croft to the Incumbent of St. Margaret's Chapel, Brighton, to be applied by him for "such charitable purposes or to such charitable institutions within the Parish of St. Margaret's aforesaid as he shall select."
Northiam - - -	Iden, Robert; Barnsley, George.	26 June 1885	3 – –	7	3 Rector and Churchwardens of Northiam.	4	—	The income of Barnsley's Charity is applicable in rewards to children who (amongst other qualifications) attend a Sunday school in connection with Church of England.
1890 :								
Bersted, South - -	Wilson, or others, charities created by Elizabeth.	18 Feb. 1890	13 – 4	10	6 The respective Vicars and Churchwardens of the two Ecclesiastical Parishes, into which the ancient Parish of South Bersted is now sub divided.	—	4 *Two* by the Vestry of *each* of the *Ecclesiastical Parishes* referred to in Column 6.	
Chichester (City) - -	St. James's Hospital -	28 Feb. 1890	98 2 1	6	3 Bishop of Chichester, Mayor of Chichester, and Archdeacon of Chichester.	3	—	The income of this Charity is applicable under a Scheme of the Court of Chancery, dated 5th May 1855, as follows :—"Three-fourth parts in aid of the funds and of the general purposes of the West Sussex, East Hampshire, and Chichester Infirmary, and the remaining fourth part in aid of the stipend of a chaplain of the said Infirmary, to be appointed by the Bishop of Chichester for the time being."
Pevensey - - -	Town Trust - - -	25 Mar. 1890	60 7 8	9	—	4	5. *Two* by Vestry of Pevensey; *two* by Vestry of Westham; and *one* by Sussex Archæological Society.	
Warminghurst - -	Poor's Fund - - -	28 Mar. 1890	2 – –	3	3 The Vicar and Churchwardens of Warminghurst.	—	—	
1892 :								
Lyminster and Rustington	The Educational Charity (formerly the Wick School).	29 Mar. 1892	63 5 –	6	—	3	3 *Three* by the Lyminster School Board.	
1893 :								
Midhurst - - -	Court, Charities of Henry	5 Sept. 1893	18 11 –	11	2 Queen's Bailiff of Midhurst, and Vicar of Midhurst.	5	4 *Four* by the Vestry of Midhurst.	By the scheme the governors for the time being of the Midhurst Grammar School are appointed to be the trustees of the charity. The number of such governors and their constitution are as shown in Columns 5 to 8.

TABULAR Statement of all Schemes established under the Provisions of the Charitable Trusts Acts between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

COUNTY OF YORK (EAST RIDING).

PARISH, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	TRUSTEES.				OBSERVATIONS.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	6.	7.	8.	9.
1884			£. s. d.					
Wilberfoss: Newton-on-Derwent (Township).	Church and Poor Charity	18 April 1884	47 – –	9	3 Vicar and Churchwardens of parish of Wilberfoss.	6	—	
1885:								
Beverley - - -	Beverley Dispensary - Beverley Cottage Hospital.	31 July 1885	150 – –	12	—	12	—	
Bishop Burton - -	Gee, Elizabeth - -	6 Mar. 1885	19 5 –	6	2 Churchwardens of parish of Bishop Burton.	4	—	
York (City): St. Margaret Walmgate (Parish).	Winterscale, Robert -	7 Aug. 1885	144 4 6	12	1 Rector of the parish of St. Margaret Walmgate.	11	—	
1886:								
Beverley - - -	Beverley Dispensary and Hospital.	14 Dec. 1886	150 – –	12	—	12	—	The body of trustees constituted by this scheme is merely a body for the management of the estates of the charity. In addition to such estates' trustees the scheme also provides (1) for a body of governors, of which every annual subscriber of one guinea to the funds of the Hospital is a member, and (2) for a special body of directors for the internal management of the Hospital.
Bishop Burton - -	Hansby's Charity, Ralph	15 Jan. 1886	164 2 2	12	3 Vicar and Churchwardens of the parish of Bishop Burton.	9	—	

1889: Catton: Stamford Bridge, East and West (Townships).	Wharton, Christopher -	13 Dec. 1889	17 6 4	5	——	5	——	
Cottingham - - -	Milnes, James; Gee, Joseph; and Meadley, Joseph.	12 Mar. 1889	16 8 –	3	3 Vicar and Churchwardens of the Parish of Cottingham.	—	——	
Holme-upon-Spalding Moor.	Parochial Charity - -	6 Aug. 1889	87 18 4	7	1 Vicar of Parish of Holme-upon-Spalding Moor.	3	3 *Three* by the Vestry of the Parish.	
1890: Ellerton - - -	Poor's Land; Bethell's Almshouses, Sir Hugh; Bethell, William; Wood, Thomas.	6 June 1890	72 11 4	9	3 Vicar and Churchwardens of Parish of Ellerton.	3	3 *Three* by the Inhabitants of the Parish of Ellerton in Vestry assembled.	
Nafferton - - -	Poor's Estate; Town Land; Baron, John.	5 Aug. 1890	72 19 2	9	1 Vicar of the Parish of Nafferton.	5	3 *Three* by the Vestry of Nafferton.	
Pocklington - - -	Grammar School - -	3 Oct. 1890	876 17 8	13	2 Lord Lieutenant of East Riding of County of York; Chairman of the Quarter Sessions for the East Riding of the County of York.	4 (and four nominated Governors, *see* Column 9.)	3 *One* by the Council of the Administrative County of the East Riding of Yorkshire; *two* by the Parents of the Day Boys for the time being upon the roll of the school.	The four "nominated governors" are to be appointed:—one by the Members of Parliament for the Divisions of the East Riding of the County of York, one by the Archbishop of York, and two by the Council of St. John's College, Cambridge.
Preston-in-Holderness -	Parochial Charities -	14 Feb. 1890	147 5 –	9	5 Vicar, Churchwardens, and Overseers of the Poor of the Parish of Preston.	2	2 *Two* by the Vestry of the Parish of Preston.	
Winestead - - -	Town Stock - - -	30 Dec. 1890	1 – 4	3	3 Rector and Churchwardens of the Parish of Winestead.	—	——	
1891: Flamborough - - -	Strickland, Sir Thomas -	7 July 1891	33 12 8	7	3 Vicar and Churchwardens of the Parish of Flamborough.	2	2 *Two* by the Vestry of the Parish of Flamborough.	
1892: Atwick - - - -	Fenwick, Edward; Burton, Ralph.	6 Dec. 1892	51 18 4	9	4 Vicar and Churchwardens of the Parish of Atwick, and Chairman of the School Board for district in which parish is included.	3	2 *Two* by the Vestry of the Parish of Atwick.	

TABULAR Statement of all Schemes established under the Provisions of the Charitable Trusts Acts between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

COUNTY OF YORK (East Riding)—*continued.*

PARISH, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	TRUSTEES.				OBSERVATIONS.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	6.	7.	8.	9.
1892:			£. s. d.					
Burstwick: Skeckling-cum-Burstwick (Township).	Clarke, Educational Charity of Rev. William.	18 Mar. 1892	13 16 –	5	—	3	2 *Two* by the School Board of Burstwick.	
Sancton - - - -	Langdaill, Marmaduke -	20 Dec. 1892	21 8 –	5	2 Churchwardens of the Parish of Sancton.	1	2 *Two* by the Parishioners of Sancton in Vestry assembled.	
1893:								
Aughton: Collingwith, East (Township).	Town's Land (Educational part).	11 July 1893	3 – –	5	—	—	5	By this Scheme the School Board of East Collingwith are appointed to be Trustees of the Charity. The number of members of the School Board is as shown in Column 5.
Skipwith: Skipwith (Township)	The Poor's Estate - -	21 Mar. 1893	4 5 6	5	5 Vicar and Churchwardens of the Parish of Skipwith, and the Overseers of the Poor of the Township of Skipwith.	—	—	

COUNTY OF YORK (NORTH RIDING).

1885:								
Lofthouse: Lythe: Ugthorpe (Township)	Woodill, Thomas - -	15 May 1885	4 12 –	6	6 Rector and Churchwardens of Parish of Lofthouse, and Vicar and Churchwardens of Township of Ugthorpe.	—	—	
1886:								
Osbaldwick: Murton (Township) -	Hutchinson, and others, William.	12 Jan. 1886	54 10 2	4	—	4	—	
1887:								
Catterick: Bolton-upon-Swale (Chapelry).	Bolton-upon-Swale Charities.	25 Aug. 1887	5 4 –	5	3 Vicar and Churchwardens of Chapelry of Bolton-upon-Swale.	2	—	

Middleham	Bridge Trust	16 Dec. 1887	5 10 –	5	1 The Parish Churchwarden of the Parish of Middleham.	1	3 *Three* by the Ratepayers of Middleham.	
1888:								
Catterick: Hudswell (Chapelry)	Plewes, Christopher; Thompson, Thomas.	9 Nov. 1888	17 5 –	6	4 The Churchwardens and Overseers of the Poor of Hudswell.	—	2 *Two* by the Inhabitants of Hudswell in Vestry assembled.	
Wilton: Lackenby, Lazenby, Wilton (Hamlets).	Jackson, John	5 Oct. 1888	17 9 8	4	1 The Churchwarden annually chosen at Easter by the Parishioners of Wilton.	3	—	
1889:								
Topcliffe: Rainton (Township)	School Prize Fund	14 June 1889	1 2 10	2	—	2	—	
1890:								
Farlington	Poor's Stock Rentcharge (No. 1). Rentcharge (No. 2). Raisbeck, William.	25 Feb. 1890	9 1 –	7	5 Vicar, Churchwardens, and Overseers of the Poor of Farlington.	—	2 *Two* by the Vestry of Farlington.	
Middleton-by-Pickering: Cropton (Township)	Charity Land Poor's Money.	12 Dec. 1890	14 4 6	5	2 Overseers of the Poor of the Township of Cropton.	3	—	
1891:								
Stillington	Consolidated Charities	28 Aug. 1891	11 16 6	8	6 Vicar, Churchwardens, and Overseers of Poor of the Parish of Stillington, and Poor Law Guardian elected for the Parish of Stillington.	2	—	
Well: Well and Snape (Townships).	Poor's Lands	14 Aug. 1891	15 – –	7	3 Vicar and Churchwardens of the Parish of Well.	2	2 *Two* by the Vestry of the Parish of Well.	
Yarm	Flounders, Benjamin (for Poor).	18 Sept. 1891	18 6 8	7	—	5	2 *Two* by the Churchwardens and Overseers of the Poor of the Parish of Yarm.	
1893:								
Whitby	Public Schools Reynolds, William.	30 May 1893	5 10 –	7	—	—	7	By this Scheme the School Board of Whitby are constituted the Trustees of the Charities. The number of the members of the School Board is as shown in Column 5.
Whitby, and other places	Gallilee, Alice	17 Feb. 1893	21 16 8	5	—	5	—	The Trustees under this Scheme are merely Estate Trustees. The income of the Charity, which is of modern foundation, is applied, in accordance with the express terms of the several Deeds of Foundation, by the Ministers or Deacons of certain Churches or Chapels specified in those Deeds.

TABULAR Statement of all Schemes established under the Provisions of the Charitable Trusts Acts between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

COUNTY OF YORK (WEST RIDING).

PARISH, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	TRUSTEES.				OBSERVATIONS.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	6.	7.	8.	9.
1884:								
Barwick-in-Elmet:			£. s. d.					
Roundhay, and other Places.	Nicholson's Foundation, Stephen.	12 Aug. 1884	135 – –	7	2 Vicar and Churchwarden of Roundhay.	—	5 *Five* by the Ratepayers of Roundhay.	This Charity, with the exception of the Almshouse Branch, is in connection with the Church of England.
Halifax:								
Northowram (Township).	Crowther, Free School of Joseph.	5 Aug. 1884	24 – –	5	—	5	—	
Kirkheaton - - -	School Charity - -	11 Jan. 1884	26 12 8	8	1 Rector of the Parish of Kirkheaton.	—	7 *Seven* by the annual subscribers, at date of election, of not less than 10*s.* each to the funds of the school.	
Pontefract - - -	Pontefract Almshouse Charities.	19 Feb. 1884	450 – –	15	3 Mayor of Borough of Pontefract; Vicar of the Parish of Pontefract; and Vicar of Parish of All Saints, in Pontefract.	12	—	
Silkstone:								
Silkstone (Township)	Town School, The - Clarkson, John. Wood, Francis. Stone, Edward. Cutler, Thomas and Ellen.	8 Oct. 1884	41 8 2	12	5 Vicar, Churchwardens, and Overseers of the Poor of Silkstone.	7	—	
1885:								
Bilbrough - - -	Wright, Christopher -	20 Mar. 1885	7 10 –	2	2 Churchwardens of the Parish of Bilbrough.	—	—	

Halifax :								
Hipperholme-cum-Brighouse (Township).	Sunderland, Samuel Whitley, Thomas.	30 Jan. 1885	61 10 8	8	3 Vicar and Churchwardens of Chapelry of Coley, in Township of Hipperholme-cum-Brighouse; Vicar and Churchwardens of Ecclesiastical Parish of Lightcliffe; and Overseers of the Poor of Township of Hipperholme-cum-Brighouse.	—	—	
Mitton :								
Waddington (Township).	Waddington Hospital	4 Aug 1885	223 4 –	10	3 Vicar of the Ecclesiastical Parish of Waddington ; and † Heir male of Robert Parker, the founder of the Charity; and the Owner of the Mansion House of Browsholme, if lineally descended from the above-mentioned Robert Parker.	7	- - - - - -	† Called Hereditary Trustees in the Scheme.
Skipton :								
East Halton (Township).	Parochial Charity	20 Jan. 1885	8 15 –	11	6 Vicar of the Parish of Skipton; Rector of the Ecclesiastical District of Bolton Abbey; and Churchwardens and Overseers of the Poor for the Township of East Halton.	5	—	
1886 :								
Birstal :								
Scholes (hamlet)	Scholes Old School	28 Sept. 1886	*	3	—	3	—	
Harthill	Hewitt, Rev. John	9 July 1886	16 13 –	5	3 Rector and Churchwardens of Harthill.	—	2 *Two* by the School Board of Harthill.	
Hoyland, High :								
Emley :								
Skelmanthorpe (Township).	Skelmanthorpe School and Poor Charity.	8 Jan. 1886	13 – –	6	6 Churchwardens and Overseers of the Poor of Skelmanthorpe; Chairman of the Local Board of Skelmanthorpe; and Chairman of the School Board of Skelmanthorpe.	—	—	
Kirkburton :								
Scholes (hamlet)	Sunday School	10 Mar. 1886	3 – –	7	—	7	—	
Sheffield :								
Ecclesall Bierlow (Township).	Broad Oak Green School Turie, Rev. Robert. Marshall, Thomas.	22 June 1886	3 5 –	4	4 Overseers of the Poor of the Township of Ecclesall Bierlow.	—	—	

* *In this case the Charity did not possess any endowment productive of income.*

TABULAR Statement of all Schemes established under the Provisions of the Charitable Trusts Acts between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

COUNTY OF YORK (West Riding)—*continued.*

PARISH, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	TRUSTEES.				OBSERVATIONS.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	6.	7.	8.	9.
1887:			£. s. d.					
Almondbury:								
Netherthong, All Saints (Ecclesiastical Parish).	Town School - -	5 Apr. 1887	8 13 6	7	—	5	2 *Two* by the Ratepayers of the Ecclesiastical Parish of Netherthong.	
Bolton-upon-Dearne -	National School - - Watson, Reginald. Spencer, Rev. William. Cartwright, Thomas. Haigh, Mary. Bingley (of Goldthorpe), Richard. Bingley (of Bolton), Richard. Pashley, Elizabeth (for poor children). Pashley, Elizabeth (for poor widows). Johnson, Joseph.	10 June 1887	13 19 8	3	3. Vicar and Churchwardens of the Parish of Bolton-on-Dearne.	—	—	
Ditto - - - -	The Overseers' and Constable's Lands.	12 Aug. 1887	15 9 2	9	3 Vicar and Overseers of the Poor of the Parish of Bolton-upon-Dearne.	3	3 *Three* by the Ratepayers of the Parish of Bolton-upon-Dearne.	
Bradford:								
Thornton (Township)	Denholme Old School -	13 Dec. 1887	*	5	—	5	—	
Keighley - - -	Harehill School Endowment.	15 Mar. 1887	30 16 –	5	—	5	—	
Sheffield:								
Brightside Bierlow (Township).	Grimesthorpe Educational Endowment.	9 Mar. 1887	9 3 8	7	—	—	7 *Seven* by Vestry of Brightside Bierlow.	

* *In this case the Charity did not possess any endowment productive of income.*

Upper Hallam - -	Fulwood Educational Endowment.	27 May 1887	45 14 8	10	—	3	7 *Four* by the Ratepayers of the Township of Upper Hallam, in Vestry assembled; *two* by the School Board of Sheffield; and *one* by the Technical School Committee of the Council of Firth College in Sheffield.	
1888:								
Bradford:								
Shipley (Township), Saltair in.	Salt, Sir Titus - -	10 Apr. 1888	1,200 - -	12	—	—	12 *Twelve* by the School Board for the District in which the Township of Shipley is situated.	By the Scheme the Governors for the time being of "the Salt Schools, Shipley, registered," are appointed the Trustees of the Charity. The number of such Governors, and their constitution, are as shown in Columns 5 and 8.
Brayton:								
Hambleton (Township).	Poor's Land - - - Richardson's Gift.	17 Feb. 1888	29 10 -	6	—	4	2. *Two* by Ratepayers of Township of Hambleton.	
Kirkburton:								
Wooldale (Township)	Cliffe School Endowment	10 Jan. 1888	8 10 -	5	—	3	2 *Two* by the School Board for the Wooldale and Cartworth United District.	
1889:								
High Hoyland:								
Clayton, West (Township.)	Consolidated Charities -	10 May 1889	29 - -	7	—	3	4 *Four* by the Vestry of Clayton, West.	
Rotherham:								
Kimberworth (Township.)	Kimberworth Educational Charity.	6 Sept. 1889	9 4 -	7	1 Vicar of Kimberworth.	4	3 *Two* by the School Board for the District, in which Township of Kimberworth is situated.	
Sheffield - - - -	Chadburn Prize, Alfred	15 Nov. 1889	19 11 -	15	—	—	15. *Fifteen* elected by the Members of the Society of Sheffield School of Art. (Every donor of 10*l.* 10*s.*, and every annual subscriber of 1*l.* 1*s.* or upwards to the funds of the Society is deemed to be a member).	By the Scheme the persons for the time being constituting the Council of the Sheffield School of Art are appointed the Trustees of the Charity. The number of Members of the Council, and their constitution, are as shown in Columns 5 and 8.
Wakefield:								
Horbury (Township)	The Town School - -	4 June 1889	8 18 8	13	—	—	13 *Thirteen* by the Freeholders, Copyholders, and owners of land in Horbury.	By the Scheme the Trustees for the time being of the Common or Town Lands are appointed to be Trustees of the Charity. The number of such Trustees. and their constitution, are as shown in Columns 5 and 8.
1890:								
Bradford - - -	Grammar School - -	20 May 1890	733 13 4	14	2 Vicar of Bradford; and President of the Bradford Mechanics' Institute.	5	7 *Three* by the Town Council of Bradford; *three* by the School Board for Bradford; *one* by the Bradford Chamber of Commerce.	

Sir *John Llewelyn*—continued.

if it is honest in 20 years, it is honest in 20 days. I want the law to say, "Now, landlord, you must "sell that piece of land that that man's house "stands on, for a fair price, or you must com- "pensate him for whatever value that land has "now, more than when he took the ground "for building." I do not care what you call that, or what authorities you bring about to do it, but I want it. I do not know that I have anything else. I may mention an instance as to that land of 2*l.* 15*s.* an acre. The man pays 2*l.* 15*s.* an acre for his land. He and his father and mother and grandfather, and so on, have lived there for over 100 years. The field, I am talking of, has been made entirely by that family. There was an old house belonging to it, and about 10 years ago, it was sold. This is some of the copyhold business in Cefn, that was talked of here to-day. They used to pay 6*l.* a year for it. All the improvement done on that land, was done by that man's ancestors. He would get a bill perhaps of a couple of shillings for manure for a year or two, but at any rate he took it. Instead of paying 6*l.* a year for the house and the field, he pays 6*l.* 10*s.* a year for the field alone, and instead of the compensation going to the pockets of the family who had improved the land, it has gone to the pocket of him, that sold the land. I do not know that I have anything else.

Mr. *Seebohm.*

25,301. I did not quite understand you about this copyhold. If a man expended money on his own copyhold, it is as good, pretty much, as freehold, is it not?—Yes; but this was a tenant of the copyholder, this very family.

25,302. Then you object to the principle of what is called a building lease?—Yes.

25,303. Or a lease, say for 60 years, at a lower rent than the value of the land, in order to recoup the tenant in the course of the 60 years, for what he may build. If you wanted to keep that for ever, you would have had to pay a higher rent from the beginning, would you not?—Yes, but——

25,304. You would rather do that?—I want the land at a fair value. When the lease is up it is a matter of bargain I know, but it is Hobson's choice. If you cannot agree with one landlord and you go to another landlord, you only get the same terms or worse. You are bound to go to some landlord, and they are all alike in this respect. There is the land, where my own house stands. I suppose, when that house was built, the land was let for half-a-crown an acre, and it was not worth more. Now when my lease will be up, that bit of land will be that much more in value—the value of my house together with what I have done there, but I shall not get a halfpenny of it. I know it is legal, but I want to alter the law, to compel those that will not, and enable those that are willing to sell.

25,305. But do you think anyone would have let that land at 2*s.* 6*d.* an acre, on a 60 years' lease, without any house at all?—No.

Mr. *Seebohm*—continued.

25,306. You would have to pay more than half-a-crown if you had bought it permanently?—Yes. Well, I do pay 1*s.* 6*d.* a perch.

25,307. Are not you paying the same rent during the whole of the 60 years?—No. The land as it was before the house was built, was not fetching more than half-a-crown, may be, I cannot say exactly—say 5*s.* That is as high as it could possibly be. Now, when it is taken on a lease, even on a 60 years' lease, it is 1*s.* 6*d.* a perch, very nearly as much for a perch, as you used to pay for an acre.

25,308. The ordinary case is to have a lease at the value of the land itself, and then for the 60 years' occupation to be considered as sufficient to recoup for the building, and that you object to?—Yes. I hold that the landlord has been recouped over and over and over. Instead of getting half a crown an acre for it, he has had 1*s.* 6*d.* a perch for it all through.

25,309. Do you know that the Scotchman is very much cleverer, than we are on this side of the Tweed?—Some of them.

25,310. When he takes a building lease for 60 years, he insists that he has the reversion, and not the landlord?—Very well, but we are not in that state here; we cannot do it. It is like this. Suppose I want to build a house now, I can get a lease. There is plenty of building land to be let. What is it a perch? It is more now when the leases are 99 years. The price is much higher, up to 5*s.* I think in some cases in our neighbourhood. Well, the landlord would give me the conditions:—"You can have a lease of "99 years for 2*s.*, 3*s.*, or 4*s.* a perch." "Oh, "you are asking too much for that bit of land; "you do not get half a crown an acre for it now." "Well, there it is, you can take it or not, just as you like." I go to the next landlord, and he tells me just the same, so it is not a free bargain. All the advantage is on one side, it is a monopoly. It is not the same as a job; if I did not like to go to work in one place, I could go somewhere else and ask for a job, but I cannot do that here.

Mr. *Richard Jones.*

25,311. You say you have seen your landlord once, I think, and your landlady twice?—No, my landlord twice. I saw Lord Dunraven speaking in this hall, and I saw my landlady laying the foundation stone of a church.

25,312. You never saw them at your farm?—Oh, no.

25,313. Do you think it would be more satisfactory to you, if your landlord and landlady were more approachable, if you came into contact with them more?—Well, I do not know, I would like it, any way. Lord Dunraven is very considerate, I must say. Whatever we do any other day, he gives us a dinner twice a year, whatever we may have to look at for the other days. In seconding the vote of thanks at the dinner to him in the "Wyndham Arms" here, I suggested this. I could see that he could address a lot of workmen here and there and all over the country,

Mr. *Richard Jones*—continued.

and I did not think it was too much for him to go there, and thank us for the rent when it was in his hands, once in a year.

25,314. But do not the landlords generally give two dinners to their tenants in the year?—No. There is another point I forgot. As a small tenant there have been abatements on the Dunraven estates and on the Margam estate. I never participated in them, I am too small. On the Margam estate the abatement is given to those who pay 15*l.* and over. The first time they made an abatement only to those who paid 20*l.* Those who pay the lowest rent get the abatement, and we who pay the most rent proportionately get nothing.

25,315. And, of course, you consider that it is unjust?—Of course I do.

25,316. And yet, as you say, you have to submit to it, because probably you feel too weak to make a better bargain?—Well, there are half-a-dozen trying for the same land, yet the land is of no more value, and would not be if there were 20 applying for it. But what chance have I to fight when there are half-a-dozen more who would give the same money, and would give it now, if I was to leave it. But the land is no more value for that. It is for this reason. I was as foolish 20 years ago. I thought, to have a lot of land was a fine thing, but I am certain of this, if I had stuck to my trade, and worked at it from that day to this, I would have a lot more money in my pocket.

25,317. But you have a liking for the land?—I have a liking for the land. I have a delight in it, and I have laid out a lot of my money on it, which would be useless for me if I had to go.

25,318. You think, generally, people have a liking for the land?—Just so.

25,319. And you think the landlords profit by it to a certain extent?—Yes, and I think another thing, I think they make a great mistake for their own sake. The tendency is to make the farms bigger—to put two, or three or four together, whereas if they made them smaller, they would have much more rent, I believe.

25,320. But when they are adding farm to farm they save buildings?—I have not got an inch of building. I have no building at all.

25,321. How do you shelter your stock?—I have built myself.

25,322. Is this on the Margam Estate?—No, on my own lease, on Lord Dunraven's land, and on some outside on the land where there is no lease; but I have no fear of being turned out, or anything of that sort. It has been asked here once or twice, why do not tenants come and give evidence, and about Mr. Knox telling them not to give evidence. I do not know what he said in the ploughing match speech, I am sure, but I must tell you this much. My experience of land agents does not terrorise me in any way about coming and giving evidence, and I will tell you why. I have fought them before now, and licked them too, and I never have known any case where they revenge. I will give you an instance if you like.

Mr. *Richard Jones*—continued.

25,323. Yes, go on?—When the county council business came, Captain Bowles, whom we all thought to be the top agent on Lord Dunraven's estate—he was an agent of some kind, because he signed receipts—was a candidate for my district. Amongst others I was not nominated, but named a candidate in a public meeting. There was another fellow that had more votes at the public meeting than I had, but Captain Bowles had more than either of us; he had not got more than all the Liberals together; he was a Conservative and I was a Liberal, that is about it. I withdrew in favour of another candidate, and did all I could—perhaps it would be rather egotism in me to say it, but I think I did more to defeat Captain Bowles than any other man did. I did all I could, any way. Captain Bowles knew me before that, through my paying rent, but ever since that, if I met him in the street, whoever is with him, he will come across the street and speak to me, and I think if there was anything in his hands, I would have it as soon as anyone. Another case has been mentioned here. There was a school board in our district, and the late lamented Mr. Talbot was a member. He went in somehow by a side wind the first time. It grieved me. I thought it a very important thing then. When the first three years were up, I with a few others got three men nominated on my side. As to one, we were rather doubtful whether he would stand, and they agreed to nominate me. My sole qualification was, that that man would not stand. We had not much claim on him, and we did not know much of him. He was a comparative stranger. Very well, if one of us went in, it meant Mr. Talbot or somebody else going out. When the nominations came out Mr. Talbot's agent, then Mr. Felton, sent a messenger first to ask me to withdraw. I was the last man, he asked to withdraw. He had succeeded with the other three, and when I heard that, after taking all the trouble, I went mad, and I would not withdraw. It was on a Saturday night, and he tried everything. He told me—I think he went further than he had a right to—he said, "Mr. Talbot sends me to ask you, "if you will kindly withdraw in his favour." I said, "Will you tell Mr. Talbot, that I ask him "as a favour, if he will kindly withdraw in my "favour." On the Monday morning there was another messenger from Mr. Felton, but I said "I will not withdraw." I was not a tenant then, I was not on the Margam estate. Well, I have been fighting with him on different questions from that day to this, and not only did he not revenge—he had no chance of revenge then—but soon after I applied to him for the land I have now, and it was through him that I had it. I am not a friend of the land agents, but I have more confidence in them than that. I am not afraid of them, in that respect at all.

Mr. *Griffiths.*

25,324. You have put your case so well that I do not think any one of us can improve it

TABULAR Statement of all Schemes established under the Provisions of the Charitable Trusts Acts between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

COUNTY OF YORK (West Riding)—*continued.*

PARISH, &c.	Name of Charity.	Date of Establishment of Scheme.	Total Gross Income dealt with.	TRUSTEES.				OBSERVATIONS.
				Total Number.	How Constituted.			
					Ex-officio.	Co-optative.	Representative.	
1.	2.	3.	4.	5.	6.	7.	8.	9.
1892:			£. s. d.					
Gisburn:								
Gisburn (Township) -	Parochial Charities -	27 Sept. 1892	26 11 2	9	3 Vicar and Churchwardens of Parish of Gisburn.	3	3 *Three* by the Inhabitants of the Township of Gisburn in Vestry assembled.	
Royston:								
Royston (Township)	United Charities - -	15 Nov. 1892	55 8 9	10	1 Vicar of the Parish of Royston, St. John-the-Baptist.	—	9 *Two* by the Ratepayers of the Townships of Royston and Chevet; *two* by Ratepayers of the Township of Monk Bretton; *two* by Ratepayers of the Township of Carlton; *one* by Ratepayers of the Township of Notton; *two* by Ratepayers of the Township of Cudworth.	
Wath-upon-Dearne:								
Brampton Bierlow (Township).	Poor's Estate - -	22 Jan. 1892	78 4 8	9	2 Overseers of the Poor of the Township of Brampton Bierlow.	5	2 *Two* by the Vestry of Brampton Bierlow.	
Whitgift:								
Swinefleet St. Margaret (Ecclesiastical Parish).	Town Land - - -	12 Jan. 1892	56 17 6	7	—	4	3 *Three* by Inhabitants of Ecclesiastical District of Swinefleet St. Margaret, in Vestry assembled.	
1893:								
Batley - - - -	Grammar School - -	19 Sept. 1893	205 19 2	13	—	6	7 *Two* by the Town Council of Batley; *two* by the School Board of Batley; *one* by the School Board of Gildersome; *one* by the School Board of Morley; and *one* by the Vestry of Churwell, till School Board for such place is formed, and then by the School Board.	

Darfield	Parochial Charities	13 June 1893	40 8 3	7	—	3	4 *One* by the Vestry of the Ecclesiastical Parish of Darfield, All Saints; *one* by the Vestry of the Ecclesiastical District of Ardsley, Christ Church; *one* by the Wombwell Local Board of Health; and *one* by the Worsborough Local Board of Health.
Darfield and Great Houghton (Townships).	Adams, for Darfield and Great Houghton, Alice:						
	Darfield Branch	8 Aug. 1893	33 10 –	7	—	4	3 *Three* by the Ratepayers of the Township of Darfield.
	Great Houghton Branch.	—	33 10 –	7	—	4	3 *Three* by the Ratepayers of the Township of Great Houghton.
Halifax:							
Southowram (Township).	Staines, Sir William	5 Sept. 1893	3 14 –	3	—	—	3 *One* by the School Board of Southowram; *two* by the Churchwardens and Overseers of the Poor of Southowram.
Kildwick	Rycroft, and others, John (otherwise The Winter Silver).	24 Mar. 1893	14 9 4	6	—	—	6 *One* by the Vicar and Churchwardens of *each* of the following *Ecclesiastical Districts* in the Parish of Kildwick, viz.:—Kildwick, St. Andrew; Cononley, St. John-the-Evangelist; Cowling, Holy Trinity; Silsden, St. James; Steeton, St. Stephen; and Sutton, St. Thomas.
Roystone:							
Woolley (Township)	United Charities	7 Nov. 1893	22 11 4	4	4 Vicar and Churchwardens of Woolley; the Elected Poor Law Guardian for Civil Parish of Woolley.	—	—
Thornhill	Greenwood Exhibition Fund.	12 May 1893	35 8 4	5	—	—	5 *One* by the Governors of the Wheelright Grammar Schools at Dewsbury; *one* by the Vestry of the Ecclesiastical District of Flockton, St. James-the-Great; *one* by the Vestry of the Ecclesiastical District of Middlestown, St. Luke; *one* by an electing body composed of two delegates from each body of managers of the several Public Elementary Schools in the ancient Parish of Thornhill; and *one* by the Urban Sanitary Authority of Thornhill.

MEMORANDUM.

FIVE Schemes have been omitted from the foregoing Table, because the Bodies of Trustees thereby constituted were not adapted to a tabular Statement in the foregoing form, viz.:—Four schemes for Charities for the benefit of discharged prisoners, in each of which cases the appointed Trustees were the Visiting Committee of the particular prison to which the Charity comprised in the Scheme was attached; and one Scheme for a Charity for the maintenance of a Convalescent Home, the number of the Trustees of which is made subject to variation from time to time in certain circumstances; *e.g.*, according to the number of persons for the time being entitled to exercise the privileges of Governors of the Institution.

TABULAR STATEMENT of all Schemes established under the Provisions of the Charitable Trusts Acts, between the 1st day of January 1884 and the 31st day of December 1893, &c.—*continued.*

SUMMARY OF THE FOREGOING TABLES.

	GLAMORGAN.		NORFOLK.		NOTTINGHAM.		SOMERSET.		SUSSEX.		YORK (East Riding).		YORK (North Riding).		YORK (West Riding).							
	1. Number of Schemes.	2. Number of Schemes expressly appointing Representative Trustees.	1. Number of Schemes.	2. Number of Schemes expressly appointing Representative Trustees.	1. Number of Schemes.	2. Number of Schemes expressly appointing Representative Trustees.	1. Number of Schemes.	2. Number of Schemes expressly appointing Representative Trustees.	1. Number of Schemes.	2. Number of Schemes expressly appointing Representative Trustees.	1. Number of Schemes.	2. Number of Schemes expressly appointing Representative Trustees.	1. Number of Schemes.	2. Number of Schemes expressly appointing Representative Trustees.	1. Number of Schemes.	2. Number of Schemes expressly appointing Representative Trustees.	(*a*) Total Number of Schemes in the Six Counties.	(*b*) Total Number of Schemes expressly appointing Representative Trustees.	(*c*) **Percentage** of Total Number of Schemes expressly appointing Representative Trustees (*b*) on Total Number of Schemes (*a*).	(*d*)* Number of Schemes in Columns 1, by which no Representative Trustees are expressly appointed, but which appoint *Ex-officio* Trustees in a Quasi-Representative character.	(*e*) Number of Schemes in Columns 1 appointing Representative or Quasi-Representative Trustees (*b*) and (*d*).	(*f*) **Percentage** of Total Number of Schemes appointing Representative or Quasi-Representative Trustees (*e*) upon Total Number of Schemes (*a*).
1884	1	–	4	–	2	1	–	–	1	–	1	–	–	–	5	2	14	3	21·	9	12	85·
1885	1	–	1	1	1	–	3	–	2	–	3	–	1	–	4	–	16	1	6·	9	10	62·
1886	–	–	6	2	2	–	2	–	–	–	2	–	1	–	5	1	18	3	17·	9	12	66·
1887	1	1	2	1	1	1	–	–	–	–	–	–	2	1	7	4	13	8	61·	2	10	76·
1888	–	–	2	1	1	1	4	2	–	–	–	–	2	1	3	3	12	8	66·	2	10	83·
1889	2	2	4	3	–	–	3	2	–	–	3	1	1	–	4	4	17	12	70·	3	15	88·
1890	1	1	5	5	2	1	2	–	4	2	5	4	2	1	7	7	28	21	75·	7	28	100·
1891	–	–	3	2	1	–	5	–	–	–	1	1	3	2	8	6	21	11	52·	7	18	85·
1892	1	1	3	3	2	2	–	–	1	1	3	3	–	–	8	5	18	15	83·	2	17	94·
1893	1	1	5	4	–	–	–	–	1	1	2	1	2	1	8	7	19	15	79·	3	18	94·
GROSS TOTAL	8	6	35	22	12	6	19	4	9	4	20	10	14	6	59	39	176	97	55·	53	150	85·

* *Ex-officio* Trustees representatively appointed to the qualifying office (*e.g.*, People's Churchwarden, Overseers, Guardians of the Poor, Chairmen of Local Boards, or School Boards, &c.), are designated QUASI-REPRESENTATIVE Trustees for the purpose of this Statement.

APPENDIX No. 11.

PAPER handed in by Sir *Henry Longley*, K.C.B., 14 June 1894.

STATEMENT showing those of the Charities in the Counties of SOMERSET and SUSSEX, and in the West Riding of the County of YORK, the Trustees of which have omitted during the Five Years ending 31st December 1893 to transmit to the Charity Commissioners Copies of the Annual Accounts of those Charities, as required by the Law.

COUNTY OF SOMERSET.

Parish.	Charity.
Abbots Leigh	*See* Leigh, Abbots.
Aisholt	Good.
Angersleigh	Foxwell.
Bath	Slack to Victoria Park.
	„ Female Penitentiary.
	„ Monmouth-street Society.
	Baldwin to Victoria Park.
	Barnard.
Bath, St. Peter and St. Paul	Church Rents.
Bath, Lansdown	Kingswood School.
Bathwick	Abraham.
	E. Collingridge.
Beckington	F. Skurray.
Bedminster	Cook's Lectureship.
Bishop's Hull	Farwell.
Bishop's Lydeard	*See* Lydeard, Bishop's.
Brent, South (Brent Knoll)	Symes.
	A. & J. Dean
	Phelps
	Body.
Bridgwater	Moore.
	Independent Chapel in Fore-street
Broadway	Every.
	Pynny.
Broomfield	Fowil.
	C. Sweeting.
Burnham:	
Highbridge	Church Charity (Augmentation of Living).
Butcombe	W. H. Marshall, for Church Service.
Carhampton:	
Rodhuish	Hole.
Chard	Cogan.
	Eveleigh.
	Wheadon.
Charlton Horethorne	Wright.
Charlton Mackrell	Parish Land.
Cheddon Fitzpaine	School.
Chew Magna	R. Jones (share of).
Chewton Mendip	Boys' School.
Chinnock, Middle	Strangways and Clark.
Coker, West	Taylor and Moore.
	Rodbard.
Corton Denham	Beaton.
Creech, St. Michael	Seager.
	Unknown Donor.
Crowcombe	M. A. Luxton.
	E. Carew.
	E. L. Carew.
Cucklington	Unknown Donor
	Wyndham.
	Knight.
	Dalton
Curry Malet	Bell Rope Acre.

COUNTY OF SOMERSET—*continued.*

Parish.	Charity.
Curry Rivell	Alford. Atwood. Selway. L. Sewer.
Cutcombe	Joyce (share of).
Decumans, St.:	
Watchett	B. and J. Newborn.
Doulting	W. Melliar. J. Reilly.
Downside Christ Church	*See* Norton Midsomer.
Drayton	W. Hart.
Dunkerton	The Grosvenor Charity.
Dunster	Pyncombe.
Emberrow	T. J. Robinson.
Glastonbury	W. Gould.
Halse	Thorn.
Harptree, West	J. and M. Buckland.
Henstridge	R. Coombs, for Minister of Independent Chapel.
Highbridge	*See* Burnham.
Horrington	*See* Wells.
Huntspill, All Saints	National School Endowment. E. Oliver.
Ilchester	T. H. M. Rio.
Kelston	Unknown Doner (to Parish Clerk). John Harrington.
Keynsham	Holbin. Bowles.
Kilve	Standfast.
Kingsbury, East	Glandfield (Poor). England.
Kingston	Poors Land "Whitefield." - ditto "Slape Mead." - ditto at Fulford.
Lackington, White	E. and M. Gyllett.
Langford Budville	Church Clock Repair Fund.
Lansdowne	*See* Bath.
Leigh, Abbots	Roach. Addis. Church House.
Lydeard, Bishop's	Dyke. Webber. Gibbs. M. F. Cole.
Lyncombe	Smith.
Milborne Port	Commonalty Church Lands. Prankerd Family. Horsey.
Milverton	Mrs. E. Boucher, for Lying-in-Charity. Betty Morgan. R. Welman, for Independent Minister. Lamb.
Minehead	Almshouse. Sullivan. J. F. Dugdale. F. J. Richardson.
Montacute	R. Donne and Augmentation.
Mudford	Whitby.
Nettlecombe	Poor's Money.
Newton, North	*See* North Petherton.
Newton St. Loe	Harrington. Henry Smith. R. Jones (share of). Casamajor. Clemens.
Norton-Fitzwarren	B. North.
Norton Midsomer:	
Downside Christ Church	School including Captain Anderdon's Bequest.
Norton St. Philip	Coles. Neeld.
Nynehead	Weekes. Wyke.
Oare	W. S. Halliday.
Odcombe	Hody.
Petherton, North	Moggridge, and others. Escott.
North Newton	Brown.

COUNTY OF SOMERSET—*continued.*

Parish.	Charity.
Petherton, South	W. Blake, and others.
Pilton	Hole.
Pitminster	Parish Lands.
	Deacon and Southwood.
	Foxwell.
Porlock	Rogers.
Portishead	Chappell.
Rodhuish	*See* Carhampton.
Ruishton	Marke.
Runnington	Clerken Croft.
St. Thomas in Pensford	J. Ireland.
	W. Adams, for Methodist Chapel.
Saltford	Kelly.
Shepton Mallet	M. Symes.
	C. King.
	Keziah Cook.
	T. St. John Hudson.
	H. Pratt, for Reading Room, &c.
	H. Pratt, for National School at Bowlish.
	H. Pratt, for National School at Kilver-street.
	W. Hyatt.
	Byrt Provis, and others.
Somerton	Churchey and Glover.
	Fisher.
	Pittard.
	E. Coombs.
Spaxton	Rich.
	W. Gordon.
Stanton Drew	Sage.
	Adams.
	Lyde.
Staplegrove	Unknown Donor.
Stocklinch, Magdalen, and Ottersey	N. Jeffreys.
Stowey	T. Jones.
	R. Jones (share of).
Stowey, Nether	Cooke.
	Buller.
	Stephens.
	Poole.
	F. Poole.
	Sykes.
	Clutsom.
Stringston	Paddon, and others.
Swainswick	Taylor.
	Willock.
	E. A. Lockey.
Taunton	Moggridge.
	Hooper.
	Stone.
	Moore.
	Clitsome.
	E. Noble.
	Trowbridge.
	Charity for Poor of Congregation of Mary-street Chapel.
St. James	Risdon.
	Curtis.
	Farewell.
	Church Estate.
	Reynolds.
St. Mary Magdalen	Reynolds.
	Poyntington.
	Farewell.
	Parker.
Tellisford	Crabb.
	Boucher.
Timberscombe	Poor's Land.
Timsbury	Church Land.
Tolland	Coleby.
Walcot	Bowsher.
	Bumpstead.
Watchett	*See* Decumans, Saint.
Wedmore	Vigor.
Wells	Harper (10*s.* for sermon).
	Brick (10*s.* for sermon).
	J. Green, for Cottage Hospital
East Horrington	W. Hippisley.
East and West Horrington	Lax and Middleton.
	Paskowicz.

COUNTY OF SOMERSET—*continued.*

Parish.	Charity.
Wembdon	Mitchell.
Weston-super-Mare	C. Hancock.
Whitchurch	Sir J. Smyth. Holbeach, and others. Opie.
Widcombe	Smith.
Winscombe	Cobley.
Winsham	Sir M. Holsworthy. J. Wheadon.
Witham Friary	J. H. Masters.
Wiveliscombe	W. Burston
Wootton Courtney	Joyce (share of).
Wootton, North	J. Coombs. Pittard.
Yatton	Davis. Lane. Turner, and others. Standfast.
Yeovil	Church Trust. S. Bradley. R. Tucker. J. R. Mayo. S. Strong.

COUNTY OF SUSSEX.

Parish or Place.	Charity.
Ardingley	Haire, M.A.
Berstead, South	Smith and Wilsonn, for Friendly Society.
Billingshurst	Croucher, J. Sales, R.
Brighton	Joy. Wooller. Bequests of various donors for Wagner's Almshouses. Wagner, for inmates of Workhouse. Wakeford Attree Scholarship at Brighton College. Cook and Welton, for St. Anne's Church. Tindal Robertson Fund. St. Mark's Church Repair Fund. Umphrey. Gainford, for Sussex County Hospital.
S. Martin	Elliott, Mrs. A.
Broadwater	Chester.
Worthing	Infirmary and Dispensary.
Buxted	Harcourt, Lady C. J.: 1. For Almshouses. 2. For National School. 3. For Infant School. Harcourt, Col. C. F.: 1. For National School. 2. For Infant School.
Hadlow Down	Harcourt, Lady C. J., for School.
Chichester	Hardham. Prebendal School. Anne, Countess of Newburgh.
St. Bartholomew	Beazley.
St. Pancras	Church Lands.
Clayton: Burgess Hill	Pigott's Drinking Fountain.

COUNTY OF SUSSEX—*continued.*

Parish or Place.	Charity.
Fairlight	Coghlan, M. E.
Findon	Liptrott Charity.
Folkington	Thomas, for Education.
Framfield	Lady C. Harcourt for School.
Grinstead, East	Haire, M. A.
Forest Row	Hoper, Miss H. L.
Grinstead, West	Syms, Miss H. S.
Hartfield	Newton.
Hastings	Fishermen's Hospital.
	All Souls' Conventual Schools and Chapel Trust.
St. Clement	Phillips, A., for Church.
St. Matthew	Site of Church of England School.
Halton	Phillips, A.
	Sarah, Countess of Waldegrave.
Horsham	Gorring.
	Jenden.
	Shelley.
	Summers.
	Champion.
	St. Mary's Hospital.
	Denby.
	Wycken.
Hove	Kelly Gift.
Icklesham	Fray.
Lamberhurst	Hamby.
	Morland.
	Gildart.
Lavant, Mid	Hardy.
Lavington, West	Currie, Rev. J.
Lewes	Ridge, Miss M.
All Saints	Haire, M. A.
St. John	Blunt.
	Smith.
St. Michael	Blunt.
Southover	Smith.
	Blunt.
Lindfield	Haire.
Littlehampton	Pickford for repair of Church.
	" " Poor.
Newtimber	Gordon, Rev. W., for Sunday School.
Ore	Turner, Rev. W. T., for repair of Church.
Blacklands	Turner, Rev. W. T., for repair of Church.
Patcham	Paine.
Preston	Kelly Gift.
Pyecombe	Bysshe, Rev. J.
Rogate	Souter, Rev. J.
Rotherfield:	
Crowborough	De Lannoy.
Rye	Turner.
	Thomas.
Slaugham	Baines.
Slindon	Countess of Newburgh.
Tarring, West	Fowler, John.
Wadhurst	Barham.
	S. Plaistead.
	H. Plaistead.
	Kitchenham.
	Church Lands.
	Young.
Yapton	Church Charity.

COUNTY OF YORK (WEST RIDING).

Parish or Place.	Charity.
Adel:	
Cookridge	Leather
Adlingfleet:	
Haldenby	Skerne.
Almondbury:	
Wilshaw St. Mary	Hirst.
Arksey-cum-Bentley	Cooke (for Vicar).
Arncliffe:	
Halton Gill	Foster.
Hubberholme	Wade.
Askham Bryan	Unknown
Badsworth:	
Thorpe Audlin	Poor's Land.
Batley	Girls' School. Shipley for Sermon.
Bingley	Busfield. Neville. Cullingworth School.
Bolton Percy:	
Colton	Poor's Stock.
Bradford	Brown for Spinster's Endowment Fund.
Thornton	Midgley
Castleford:	
Houghton	Poor's Estate.
Clapham	Austwick Chapel.
Conisborough	School. Church Estate.
Darfield	Gill.
Darton:	
Barugh	Unknown.
Doncaster	Sturges Exhibition
Ecclesfield	Barne's Hall Hospital. Turie. Mansel.
Bradfield	Scott. Bland.
Felkirk	Berry
Fewstone:	
Thruscross	Spencer House and Chapel Land.
Gargrave	Free School
Giggleswick	Hargreaves.
Settle	Knowles
Goldsborough	Poor's Land Poor's Money
Guiseley:	
Horsforth	Stanhope Unknown
Rawdon	Baptist Chapel Estate.
Halifax	A. Irving for Prevention of Cruelty to Animals.
Ovendon	Providence Chapel Parsonage. Fourness.
Barkisland	Allotment for repair of highways.
Stansfield	Pollard Eastwood Presbyterian Chapel.
Queensbury	Foster.
Elland	Grantham.
Ripponden	Hoyle for Curate
Hampsthwaite:	
Birstwith	Fund arising from sale of Wreak's School.
Harewood:	
Weeton	Wade.
High Hoyland	Kaye's School Charity

COUNTY OF YORK (West Riding)—*continued.*

Parish or Place.	Charity.
Kippax	Fether.
Kirkburton:	
Cartworth	Hinchliffe Mill School.
Kirby Malzeard:	
Middlesmoor	Dr. Craven.
Kirby Overblow:	
Stainburn	Dunwell.
Knaresborough	Wesleyan Methodists' Chapel Trust.
Bilton and Harrogate	Harrogate Cottage Hospital.
Ledsham	Selby and another. Poor's money. Sellon. Procter.
Leeds	Freeman. Trinity Chapel Lands. St. Thomas's Church Endowment and Repair Fund. Hall for Vicar of All Saints. Leather's Charities.
St. Saviour	Stewart.
Burley St. Matthias	Church Repair Fund.
St. Paul	Thornton.
St. Hilda	Stewart.
Meanwood	Leather.
Newtown	Lawson.
Maltby	Poor's Estate.
Melton	Fountain.
Mitton:	
Hopton	Hutton.
Waddington and West Bradford	School.
Newton Kyme	Barwick for apprenticing. School.
Otley	Constable. Fawkes.
Bramhope	Endowment for Minister.
Pontefract	Fothergill for Catechist.
St. Giles	Hudson.
Carleton	Curate's Fund or Charity of Lund and Leatham.
Preston, Long	Particular Baptist Chapel and A. Tattersall's Charity.
Rawmarsh	Alderson.
Ripon	Vavasour.
Holy Trinity	Cook.
Pateley Bridge	Wigglesworth.
Sawley	Norton.
Rotherham:	
Greasborough	Sir T. Wentworth.
Masborough	Independent College, Ansell's Scholarship.
Royston:	
Monk Bretton	Talbot.
Woolley	Dole Land. Husband. Charity Funds. School.
Sandal:	
Crigglestone	Worrill.
Sedbergh:	
Dent	Dawson.
Sheffield	J. Ridge.
Attercliffe with Darnall	Almshouses. S. Staniforth.
Silkstone:	
Barnsley	Rogers. Wood.
Hoylandswaine	Stanhope's Charities.
Stainbrough	School.
Skipton	The Clerk's School. Parish Estate.
Bolton	Cumberland's Dole.

COUNTY OF YORK (West Riding)—*continued.*

Parish or Place.	Charity.
Snaith	Hospital.
	Hollings and Stadlock.
	Poor's Land.
	Johnson.
	Headley.
Hook	Parker.
Rawcliffe	Almshouses.
Tadcaster:	
Stutton	Staidburn.
Thorne	Rodwell.
Thornton	Smith.
Tickhill	Almshouse.
	G. Holmes.
	Woodroof and Nicholson.
	Burns.
	Lord Castleton.
	H. Holmes.
	Skinner and others.
	Farmery and others.
	Hackett.
Wakefield	Sunday Evening Lectureship.
	Rev. K. Wilson.
	Gaskell.
Warmfield with Heath	J. Smyth, for sermon.
	J. Smyth, junior.
	Stringer and others.
Wath-upon-Dearne:	
Wentworth	Morris and Pickles, for Minister.
Whitgift:	
Reedness	N. Wressel.
Woodkirk or West Ardsley	Scholefield.
Yorkshire General	Leather for West Riding Charitable Society.
	Leather for Ripon Diocesan Church Building Society.
	Brocklebank, for Snaith Wesleyan Circuit.

SUMMARY of foregoing STATEMENT.

COUNTY.	1. Number of Charities.	2. Charities productive of Income.		3. Charities of which no Accounts rendered for Five Years preceding 1st January 1893.		4. Proportion per Cent. of NUMBERS in Column 3 to Numbers in Column 2.	5. Proportion per Cent. of INCOME in Column 3 to Income in Column 2.
		Number.	Income.	Number.	*Income.*		
			£.		£.		
SOMERSET	1,446	1,245	33,571	219	*2,003*	17·5	*5·9*
SUSSEX	686	544	21,400	89	*2,231*	16·3	*10·4*
YORK, W.R.	2,494	2,057	111,463	140	*3,245*	6·8	*2·7*
TOTAL	4,626	3,846	166,434	448	*7,479*	11·1	*4·2*

TABLE A.

GENERAL JURISDICTION EXERCISED BY THE CHARITY COMMISSIONERS UNDER THE CHARITABLE TRUSTS ACTS IN RESPECT OF ALL CHARITIES.

ENDOWED CHARITIES

[i.e., *Trusts capable of permanent duration for the benefit, whether they be rich or poor, of the public, or a class of the public, as distinct from individuals.*]

receive from the State special protection and privileges; viz.:—

- The capacity of permanence denied to private interests.
- The intervention of the Attorney-General, on behalf of the Crown, for their protection.
- The adoption, by Courts of Equity, of rules of construction more favourable to the maintenance and execution of Charitable Trusts than those which prevail in the construction and administration of private trusts.

In consideration of these privileges the State, from very early times, has imposed upon the administration of Charitable Trusts certain corresponding measures of exceptional control, having for their object the promotion of "the Charitable intent of the givers or founders of Charities." (3 Eliz. c. 4.)

This control of the State is exercised

- by Courts of Equity, as matter of original jurisdiction.
- since 1853, by The *Charity Commissioners*,

instituted as an authority, partly judicial and partly administrative, charged with the administration of the special protection of Charities by the State, hitherto exercised, inadequately because intermittently and remotely, by Courts of Equity, and differing from those Courts, not in the scope of its powers but in the continuity and directness of their exercise.

The powers thus exercised by the Charity Commissioners are conferred by the Statutes known as "The Charitable Trusts Acts,"* in part by express enactment, and in part by reference to the original and inherent jurisdiction of Courts of Equity (C. 60, s. 2.).

These Statutes [*from the operation of which certain classes of Charities subject to the jurisdiction of Courts of Equity are specially exempted by C. 53 s. 62-64, 67; C. 55 s. 46, 47, 49; C. 69 s. 2;* e.g., *Colleges, Registered Places of Worship, and Charities supported, or so far as they are supported, by voluntary contributions*].

- confer upon the Commissioners powers
- affect the action of Trustees of Charities

Compulsorily and

- Positively, by the requirement that Trustees of Charities shall render annual accounts to the Charity Commissioners. C. 55. s. 44, 45.
- Negatively (*e.g.*, by prohibiting the performance of certain acts without the sanction of the Commissioners).
- Permissively (*e.g.*, by empowering Trustees to make application to, or to seek advice and assistance from, the Commissioners).

* CHARITABLE TRUSTS ACTS.

C. 53.	indicates	The Charitable Trusts Act,	1853.	16 & 17 Vict. c. 137.
C. 55.	,,	,,	1855.	18 & 19 Vict. c. 124.
C. 60.	,,	,,	1860.	23 & 24 Vict. c. 136.
C. 69.	,,	,,	1869.	32 & 33 Vict. c. 110.
C. 87.	,,	,,	1887.	50 & 51 Vict. c. 49.
C. 91.	,,	,,	(Recovery) Act. 1891.	54 Vict. c. 17.

[N.B.—*This provision constitutes the only compulsory point of contact between the Charity Commission and every Charity within its jurisdiction.*]

These heads of regulation are dealt with in effect under the head of the Powers of the Charity Commissioners.

(I.) To inquire into the administration of Charities.
C. 53. s. 9–15.
C. 55. s. 6–9.

(II.) To compel the production of accounts and documents, and information.
C. 53. s. 61.
C. 55. s. 44, 45.
C. 60, s. 19.

(III.) To facilitate the administration of Charities by supplementing the action of Trustees in respect of,

(*a*) Dealings with the corpus of real, or the capital of personal estate.
C. 53, s. 21, 24–27.
C. 55, s. 16, 29, 30, 32–36, 38, 39, 41.
C. 60, s. 15, 16.
C. 69, s. 12.

(*b*) The authorisation of applications of income by Trustees to purposes beyond the scope of ordinary administration.
C. 53, s. 16, 23.
C. 55, s. 31.
C. 69, s. 9.

(*c*) The appointment and removal of Trustees and Officers.
C. 53, s. 22.
C. 60, s. 2–10, 13, 14.
C. 69, s. 4, 5, 7, 10, 11.

(IV.) To secure the safe custody and due investment of the property of Charities by means of

(*a*) The constitution of

(1) The Official Trustee of Charity Lands.
C. 53, s. 47–50.
C. 55, s. 15, 16, 37.
C. 87, s. 5.

(2) The Official Trustees of Charitable Funds.
C. 53, s. 51, 52.
C. 55, s. 12, 17–28, 37.
C. 60, s. 12, 17, 18, 23.
C. 87, s. 4.

(*b*) Powers of vesting real and personal estate without conveyance.
C. 60. s. 2–10.
C. 69. s. 4, 5, 7, 10, 11.

(*c*) Provision for the safe custody of Deeds and Muniments of Charities.
C. 53. s. 53.
C. 55. s. 42.
C. 60. s. 19.

(V.) To provide for the establishment of Schemes for adapting the administration of Charities to meet changes occurring, in the course of their perpetual duration, in the circumstances of the Charity property, of the locality, or of society generally, by

(*a*) Facilitating the enactment by Parliament of Schemes in cases in which the required changes in administration are such as cannot be effected under the doctrine of *cy près*.
C. 53. s. 54–60.
C. 55. s. 43.

(*b*) The establishment, by direct Order (subject to appeal to a Court of Equity), of Schemes in accordance with the equitable doctrine of *Cy près* as administered by Courts of Equity. (*Table* C.)
C. 60. s. 2–10.
C. 69. s. 4, 5, 7, 10, 11.

(*c*) Orders for apportioning Charities.
C. 55, s. 10, 11, 13, 14.

(VI.) To control, to facilitate, and to diminish the cost of, legal proceedings taken on behalf of Charities.
C. 53. s. 17–20, 34–39, 42, 44.
C. 55. s. 40.
C. 91. ss. 3–6.

TABLE B.

SPECIAL JURISDICTION OF CHARITY COMMISSIONERS OVER EDUCATIONAL CHARITIES.

ENDOWED SCHOOLS ACTS.

E. 69. indicates the Endowed Schools Act, 1869. 32 & 33 Vict. c. 56.
E. 73. „ „ „ „ 1873. 36 & 37 Vict. c. 87.
E. 74. „ „ „ „ 1874. 37 & 38 Vict. c. 87.
W. I. E. 89. indicates the Welsh Intermediate Education Act, 1889. 52 & 53 Vict. c. 40.

ENDOWED CHARITIES

(defined as in Table **A** *and being all subject, with the exceptions there stated, to the jurisdiction of the Charity Commissioners, under the Charitable Trusts Acts*).*

(I.) Not capable of of forming the subject of a scheme under the Endowed Schools Acts.

- (*a*) Not being Educational Endowments as defined by the Endowed Schools Acts. (E. 69. s. 5, 29.)
- (*b*) being Educational Endowments as defined by Endowed Schools Acts, but specially exempted from the operation of Endowed Schools Acts. †(E. 69. s. 8. E. 73. s. 3.)

(II.) Capable of forming the subject of a Scheme under the Endowed Schools Acts. (Table C.)

- (*a*) The Endowments or parts of the Endowments whereof are Educational Endowments as defined by Endowed Schools Acts. E. 69. s. 5. 29.
  - (1) absolutely.
  - (2) conditionally upon certain consents. ‡E. 69. s. 14 (1). (*See* also ss. 25, 26.)
- (*b*) *The Endowments or parts of the Endowments whereof, not being Educational Endowments as defined by the Endowed Schools Acts, are capable of becoming constructively Educational Endowments with certain consents, as being
  - (1) non-educational parts of mixed endowments. E. 69. s. 24. E. 73. s. 3.
  - (2) applicable to certain specified purposes, *e.g.*, doles, apprenticeship, or to purposes obsolete or insignificant. (E. 69. s. 30.)

Notes.— The classification of Charities for the purposes of exemption from the jurisdiction created by the Charitable Trusts Acts, and the classification of Educational Endowments (as part of the general aggregate of Endowed Charities) for the purpose of exemption from the jurisdiction created by the Endowed Schools Acts, are wholly independent of each other. There are Educational Endowments which are exempt from the latter jurisdiction, and yet are subject to the former; and it is conceivable that an Endowed Charity may be exempt from the former, and yet be subject to the latter jurisdiction.*

† *The exemption created by E. 73, s. 3, does not extend to the jurisdiction created by the W.I.E. 89. (See s. 12 (2) of the latter Act.)*

‡ *These provisions are varied in respect of the jurisdiction created by the W.I.E. 89, s. 13.*

TABLE C.

PROCEDURE IN RESPECT OF CHARITY COMMISSIONERS' SCHEMES.

CHARITABLE TRUSTS ACTS.

* C. 53. indicates The Charitable Trusts Act, 1853. 16 & 17 Vict. c. 137.
C. 55. „ „ „ „ 1855. 18 & 19 Vict. c. 124.
C. 60. „ „ „ „ 1860. 23 & 24 Vict. c. 136.
C. 69. „ „ „ „ 1869. 32 & 33 Vict. c. 110.

The Charity Commissioners are empowered (Table A. v. (*b*).) to establish Schemes for the regulation of all Endowed Charities (with the special exceptions stated in Table A.).
(*These powers are permanent.*)

The Charity Commissioners are empower and E. 74. s. 1.) to frame Schemes for Educational Endowments. (Table B., II
(*These powers are temporary*, 55 & 56 *sub-s.* 2.)

Under these two jurisdictions there is constituted the aggregate of

SCHEMES

EMANATING FROM THE CHARITY COMMISSION.

(I.) Initiation of Scheme.

(A.) Under *CHARITABLE TRUSTS ACTS.

(1) Where the Income of the Charity does not amount to 50*l.*
(C. 53. s. 43.
C. 60. s. 2.)

Upon §application by

(*a*) The Attorney General.

(*b*) One or more Trustees or persons acting in the administration of, or interested in, the Charity.

(*c*) Any two or more inhabitants of the Parish in which Charity is administered or applicable.

(2) Where the Income of the Charity amounts to 50*l.*

Upon §application by the Trustees or a majority of them.
(C. 60. s. 4.)

(B.) Under †ENDOWED SCHOOLS ACTS.

‡In all cases by the Charity Commissioners.
(E. 69. ss. 9, 32. E. 74. s. 1.)

(II.) Operation of Scheme.

(A.) Under *CHARITABLE TRUSTS ACTS.

To adapt Trusts to altered circumstances within the limits of the *cy-près* doctrine as administered by Courts of Equity.
(C. 60. s. 2.)

(B.) Under †ENDOWED SCHOOLS ACTS.

Absolutely to vary trusts, with a view to the advancement of the education of boys and girls, subject to due regard for the educational interests of certain classes of persons.
(E. 69. ss. 9, 10, 11. 46. E. 73, s. 5.)

(III.) Notice to be given of Scheme.

(A.) Under *CHARITABLE TRUSTS ACTS.

(1) Before establishment of Scheme.

Public notice for one month in the locality, as Charity Commissioners deem effectual for ensuring publicity.
(C. 60. s. 6.)

(2) After establishment of Scheme.

(*a*) Deposit of Scheme for public Inspection during one month.
(C. 60. s. 7.)

(*b*) Such effectual publicity as Charity Commissioners consider most expedient.
(C. 60. s. 7.)

(B.) Under †ENDOWED SCHOOLS ACTS.

(1) Before submission to Education Department.
E. 69, s. 33.)

(*a*) To Governing Body (*and in cases within the W.I.E.* 1889, *also to the Joint Education Committee*).

(*b*) To Principal Teacher.

(*c*) Scheme to be published and circulated for *two months* as Commissioners think sufficient for giving information to all persons interested.
E. 73. s. 12.

(2) After submission to Education Department.
(E. 73. s. 13.)

(*a*) Before approval by Education Department.

Scheme to be published and circulated for *one month* as Education Department think sufficient for giving information to all persons interested.

(*b*) After approval by Education Department.

Scheme to be published and circulated for *two months* as Education Department think sufficient for giving information to all persons interested.

§ *A special power to make this application is given to Joint Education Committees in respect of Educational Endowments by the W.I.E.* 89, *s.* 13.

‡ *This initiative is temporarily transferred, as regards Educational Endowments in Wales and Monmouthshire, to Joint Education Committees of Counties, by the W.I.E.* 89.

by (E. 69, s. 9,
ne regulation of

et. c. 60, *s.* 1,

† ENDOWED SCHOOLS ACTS.

E. 69. indicates the Endowed Schools Act, 1869, 32 & 33 Vict. c. 56.
E. 73. „ „ „ „ 1873, 36 & 37 Vict. c. 87.
E. 74. „ „ „ „ 1874, 37 & 38 Vict. c. 87.
W.I.E. 89, indicates Welsh Intermediate Education Act, 1889, 52 & 53 Vict. c. 40.

(IV.) Procedure for Establishment.

(A.) Under *CHARITABLE TRUSTS ACTS.

A sealed Order of the Charity Commissioners.
(C. 60. s. 2.)

(B.) Under †ENDOWED SCHOOLS ACTS.

1. Submission by Charity Commissioners to Education Department.
(E. 69, s. 36.)

2. Approval by Education Department.
(E. 73. s. 13.)

3. Final approval by The Queen in Council.
(E. 73. s. 15.)

(V.) Appeal against Scheme.

(A.) Under *CHARITABLE TRUSTS ACTS.

To Chancery Division of High Court of Justice within three months after definitive publication of Order establishing Scheme.

Appeal may be presented by

(1) The Attorney-General.
(C. 60, s. 8.)

(2) Any person authorised by the Attorney-General or by the Charity Commissioners.
(C. 69, s. 10).

(B.) Under †ENDOWED SCHOOLS ACTS.

Within *two months* after approval by Education Department.
(E. 73, s. 13.)

(1) A Petition that the Scheme may be laid before Parliament may be ‖presented to Education Department by
(E. 73, s. 13.)

(*a*) The Governing Body of the Endowment.

(*b*) The Council of any Municipal Borough directly effected.

(*c*) Not less than twenty inhabitant ratepayers of any Municipal Borough or place directly affected.

(2) A Petition to the Queen in Council against the Scheme (to be heard before the Judicial Committee of the Privy Council) may be ‖presented unless the Scheme relates to an endowment, which, during the three years preceding the 2nd August 1869, has had an annual gross income of not more than 100*l*.
(E. 69, s. 39.)

(*a*) Where the Petition objects to the Scheme on certain general grounds by

(*α*) The Governing Body of the Endowment.

(*β*) Any person or body corporate directly affected.

(*b*) When the Petition objects to the Scheme as not having regard to certain educational interests by

The Governing Body of the Endowment.

‖ *In cases within the W.I.E.* 89, *also by the County Council, or Joint Education Commiitee.*

APPENDIX No. 13.

PAPER handed in by Mr. *D. R. Fearon*, 30 May 1894.

RETURN of MOTIONS, made in Parliament up to the 31st day of May 1894, for Addresses praying Her Majesty to withhold Her Consent from Schemes, or any Parts of Schemes, laid before Parliament under the provisions of the Endowed Schools Acts, 1869 to 1889.

County.	Parish, &c.	Name of Charity.	House.	Date of Motion.	Result.	Hansard's Parliamentary Debates.	
						Volume.	Column.
1871:							
London	Westminster, St. Margaret and St. John-the-Evangelist.	Emanuel Hospital	L	30 June 1871	Agreed to	207	862
Ditto	- - ditto	Grey Coat Hospital	L	30 June 1871	†Agreed to	207	892
1872:							
York, W.R.	Ripon	Grammar School	C	7 May 1872	Rejected	211	444
Anglesey	Beaumaris	Hughes, David	L	26 July 1872	Agreed to	212	1,857
Essex	Felstead	Riche, Richard, Lord (Felstead Charities).	L	26 July 1872	†Agreed to	212	1,864
Derby	Tideswell	School founded by Robert Pursglove.	L	26 July 1872	†Agreed to	212	1,864
1873:							
London	Westminster, St. Margaret and St. John-the-Evangelist.	Grey Coat Hospital	C	7 Feb. 1873	Rejected	214	178
Ditto	- - ditto	Emanuel Hospital	C	13 May 1873	Rejected	215	1,875
Suffolk	Needham Market	Theobald's School, Francis	C	13 May 1873	*Withdrawn*	215	1,960
Warwick	Birmingham	King Edward VI.'s Grammar School.	L	19 May 1873	†Agreed to	216	74
Denbigh	Denbigh	Free Grammar School Blue Coat School	L	18 July 1873	Agreed to	217	592
York, W.R.	Halifax: Heath in	Free Grammar School of Queen Elizabeth.	L	18 July 1873	†Rejected	217	597
1874:							
Somerset	Timberscombe and adjacent parishes.	Ellsworth, Richard	L	4 May 1874	†Agreed to	218	1,570
Ditto	Crewkerne	Combe's School	L	4 May 1874	†Agreed to	218	1,577
Glamorgan	Gelligaer	Lewis, Edward	L	8 May 1874	*Withdrawn*	218	1,917
Ditto	- ditto	- - ditto	L	*8 May 1874	†Agreed to	218	1,921
1878:							
Warwick	Birmingham	King Edward VI.'s Grammar School.	C	5 Mar. 1878	Rejected	238	777
York, W.R.	Leeds	Poor's Estate	C	19 Mar. 1878	Rejected	238	1,657

* In these cases the Motion for an Address related only to a part of the scheme in question.
† In these cases no Division was taken upon the Motion in question.

APPENDIX, No. 13.—Return of Motions, made in Parliament up to the 31st day of May 1894, &c.—*continued.*

County.	Parish, &c.	Name of Charity.	House.	Date of Motion.	Result.	Hansard's Parliamentary Debates.	
						Volume.	Column.
1880:							
Kent	Tonbridge	Judd's School, Sir A.	C	*28 June 1880	†Agreed to	Unreported.	
Ditto	ditto	Skinners' Company's Charities	C	*28 June 1880	†Agreed to	Unreported.	
1882:							
Kent	Lyminge, Dymchurch, Smeeth.	Bedingfield's Charity	L	17 Mar. 1882	*Withdrawn*	267	1,126
London	Camberwell: Dulwich in	Alleyn's College of God's Gift, &c.	C	24 July 1882	Rejected	272	1,661
Ditto	ditto ditto	ditto ditto	L	28 July 1882	†Rejected	273	26
1884:							
Gloucester	Cam	Hopton's School, Frances	C	*24 Mar. 1884	Rejected	286	718
1887:							
Wilts	Lavington, West	Dauntsey's Charity, William Wilts County School	L	29 Mar. 1887	†Agreed to	312	1,761
York, W.R.	Hemsworth Barnsley	Holgate's School and Hospital Grammar School	L	*10 May 1887	†Rejected	314	1,434
1888:							
Hertford	Hitchin	Grammar School	L	9 Mar. 1888	†Rejected	323	686
1889:							
Glamorgan	Cardiff	Cradock Wells Charity	C	11 April 1889	Rejected	335	327
1890:							
London	General	Christ's Hospital (Webb's Charity).	C	12 June 1890	Rejected	345	808
Ditto	ditto	Christ's Hospital	C	1 July 1890	†Rejected	346 (Parliamentary Debates. 4th Series.)	552
1893:							
Carnarvon	ditto	Carnarvonshire Intermediate and Technical Education Fund.	L	24 Mar. 1893	*Withdrawn*	X	1,004
York, W.R.	Halifax: Barkisland in	Endowed School	L	23 June 1893	Agreed to	XIII	1,752
Cardigan	General	Cardiganshire Intermediate and Technical Education Fund.	L	*4 Sept. 1893	Agreed to	XVI	1,841
Merioneth	ditto	Merionethshire Intermediate and Technical Education Fund.	L	*4 Sept. 1893	Agreed to	XVI	1,846
1894:							
Anglesey	ditto	Anglesey Intermediate and Technical Education Fund.	L	17 April 1894	†Rejected	XXIII	593
Flint	ditto	Flintshire Intermediate and Technical Education Fund.	L	*17 April 1894	Agreed to	XXIII	593

* In these cases the Motion for an Address related only to a part of the scheme in question
† In these cases no Division was taken upon the Motion in question.

APPENDIX No. 14.

PAPER handed in by Mr. *D. R. Fearon*, 30 May 1894.

APPEALS to the QUEEN in COUNCIL, under Section 39 of the Endowed Schools Act, 1869 (not reported).

Schemes framed by	Charity.	Date of Hearing.	Main Questions (so far as known).	Result.
Endowed Schools Commissioners.	Grey Coat Hospital, Westminster.	10 June 1872	Sections 9 and 29, Endowed Schools Act, 1869.—Patronage, legal rights and contracts affecting endowments.	Scheme to proceed.
Ditto - - ditto -	Kelly College, Tavistock - -	24 June „	Section 11, Endowed Schools Act, 1869.—Founder's kin, alternative scheme.	ditto - ditto.
Ditto - - ditto -	Emanuel Hospital, Westminster	15 Nov. „	Sections 9, 10, and 11, Endowed Schools Act, 1869.—Poor, governing body, &c.	ditto - ditto.
Ditto - - ditto -	Huish's Charity, Taunton -	26 May 1873	Section 19, Endowed Schools Act, 1869.—Exhibitioners at university.	Scheme to be remitted.
Ditto - - ditto -	Ellsworth's Charity, Timberscombe and Cutcombe.	15 July „	Sections 9, 11, and 19, Endowed Schools Act, 1869 - -	Scheme to proceed.
Ditto - - ditto -	Lewis's Charity, Gelligaer -	15 July „	Sections 9, 11, and 39, Endowed Schools Act, 1869.—Persons directly affected.	ditto - ditto.

N.B.—It appears to be proper that attention should also be directed to the case of "The Meyricke Fund," though not a case of appeal to the Privy Council, *see* L.R., Eq. XIII. p. 269, and L.R., Chancery App. VII., p. 500. In this case, Sections 5 and 14 (4) Endowed Schools Act, 1869, were the main questions; and the decision of Vice-Chancellor Wickens (affirmed on appeal before Lord Chancellor Hatherley and Lords Justices James and Mellish) was in favour of the contention of the Endowed Schools Commissioners.

APPEALS to the QUEEN in COUNCIL, under Section 14 of the Endowed Schools Act, 1873 (Judgment reported).

Schemes framed by	Charity.	Date of Judgments.	Report.	Main Questions.	Result.
Endowed Schools Commissioners.	Alleyn's College, Dulwich -	27 Jan. 1876	L.R., 1 Appeal Cases, 68.	Section 13, Endowed Schools Act, 1869.—Vested interest of master; saving compensation.	Scheme to be remitted.
Charity Commissioners.	Hodgson's School, Wiggonby-in-Aikton.	6 June 1878	L.R., 1 Appeal Cases, 857.	Section 5, Endowed Schools Act, 1869.—Educational endowment; adults. Section 9, Endowed Schools Act, 1869.—Jurisdiction. Section 11, Endowed Schools Act, 1869.—Due regard to classes. Section 19, Endowed Schools Act, 1869.—Religious opinions and teaching.	Scheme to be remitted on question of due regard.
Ditto - ditto -	Shaftoe's Charity, Haydonbridge.	6 June „	L.R., 3 Appeal Cases 872.	Section 11, Endowed Schools Act, 1869.—Class entitled. Section 13, Endowed Schools Act, 1869.—Vested interests. Section 39, Endowed Schools Act, 1869.—Persons directly affected.	Scheme to proceed.
Ditto - ditto -	Grammar School, &c., Sutton Coldfield.	15 Nov. 1881	L.R., 7 Appeal Cases, 91.	Section 11, Endowed Schools Act, 1869.—Due regard. Section 24, Endowed Schools Act, 1869.—Finality of scheme. Section 39, Endowed Schools Act, 1869.—Persons directly affected.	ditto - ditto.
Ditto - ditto -	St. Dunstan's-in-the-East Charities.	7 July 1882	Ross *v.* Charity Commissioners. L.R., 7 Appeal Cases, 463.	Sections 5 and 14, Endowed Schools Act, 1869.—Endowments not originally educational. Section 11, Endowed Schools Act, 1869.—Due regard. Sections 18 and 19, Endowed Schools Act, 1869.—Religious opinions and teaching.—Section 24, Endowed Schools Act, 1869.—Expenses of management.	ditto - ditto.

APPENDIX, No. 14.—Appeals to the Queen in Council, under Section 14 of the Endowed Schools Act, 1873 (Judgment reported)—*continued.*

Schemes framed by	Charity.	Date of Judgments.	Report.	Main Questions.	Result.
Charity Commissioners	Parochial Schools, St. Leonard, Shoreditch.	25 Mar. 1884	L.R., 10 Appeal Cases, 304.	Section 9, Endowed Schools Act, 1869.—Powers of Commissioners. Section 19, Endowed Schools Act, 1869.—Founder, his authority. Section 7, Endowed Schools Act, 1873.—Regulations by trustees.	Scheme to proceed.
Ditto - ditto -	Hemsworth, Free Grammar School and hospital of Archbishop Holgate, and the grammar school at Barnsley.	5 Mar. 1887	L.R., 12 Appeal Cases, 444.	Section 5, Endowed Schools Act, 1869.—Educational Endowment (annual sum temporarily applied). Section 9, Endowed Schools Act, 1869.—Removal of school site. Section 11, Endowed Schools Act, 1869.—Due regard. Section 19 (2), Endowed Schools Act, 1869.—Exception from provisions as to religion.	ditto - ditto.
Ditto - ditto -	Christ's Hospital, London -	14 Dec. 1889	L.R., 15 Appeal Cases, 172.	Section 5 and Section 29, Endowed Schools Act, 1869.—Educational Endowments. Section 14 (1) Endowed Schools Act, 1869.—Modern endowment. Section 16, Endowed Schools Act, 1869.—Religious education in boarding schools. Section 11, Section 13, and Section 39 (3) Endowed Schools Act, 1869.—Right of donation governors to appeal to Queen in Council. Section 39, Endowed Schools Act, 1869.—*Locus standi.* Section 42, Endowed Schools Act, 1869.—Appeal relating to endowment under 100*l.*	Scheme to be remitted with declaration (but only with reference to questions under Section 16, Endowed Schools Act, 1869).
Ditto - ditto -	Welsh Intermediate Education Act, 1889. Swansea Grammar School.	25 April 1894	—	Section 13 (5), Endowed Schools Act, 1869.—Rights of patronage. Section 19 (2) Endowed Schools Act, 1869.—Provisions for religious education. Section 25, Endowed Schools Act, 1869.—Mixed endowment.	Scheme to proceed.

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APPEALS to the QUEEN in COUNCIL, under Section 14 of the Endowed Schools Act, 1873. (Referred to the Judicial Committee of the Privy Council, and dealt with by Order in Council) (not reported).

Schemes framed by	Charity.	Date of Order in Council.	Main Questions.	Result.
Charity Commissioners -	Sunderland's Charity, Hipperholme-cum-Brighouse.	On report of Judicial Committee, case dealt with by Order in Council, dated 14th August 1879.	Consent under Sections 24 or 30, Endowed Schools Act, 1869.	Scheme to be remitted.
Ditto - ditto -	Tasker's Charity, Haverfordwest.	On report of Judicial Committee, case dealt with by Order in Council, dated 3rd May 1882.	Petition of schoolmaster.	ditto - ditto.
Ditto - - ditto -	Hingham Endowed School -	On report of Judicial Committee, case dealt with by Order in Council, dated 3rd March 1883.	- - ditto - -	Scheme to proceed.
Ditto - - ditto -	Parmiter's School, Bethnal Green.	On report of Judicial Committee, case dealt with by Order in Council, dated 4th March 1884.	- - ditto - -	ditto - ditto.
Ditto - - ditto -	Grammar School, &c., Uttoxeter	On report of Judicial Committee, case dealt with by Order in Council, dated 18th November 1885.	- - ditto - -	ditto - ditto.

APPENDIX, No. 15.

PAPER handed in by Mr. *D. R. Fearon*, 6 June 1894.

CONSTITUTION of Governing Bodies in Schemes under Endowed Schools Acts.

PERIOD.	Number of Schemes.	GOVERNING BODIES. (a.) Ex-officio.	(b.) Co-optative.	(c.) Representative. Nominated.	Representative as distinguished from Nominated.	TOTAL as shown in Returns.
1887—1892 - -	149	72	335	155	543	693
1893 - - -	37	13	62	34	187	221
TOTALS - - -	186	85	397	189	730	919

* This total is arrived at by omitting members of Governing Bodies appointed by individual owners of estates, by justices of the peace, by the universities or by colleges therein, by the bishops of dioceses or by deans and chapters, and by such bodies as the Royal Agricultural Society, the London Chamber of Commerce, and the Council of Victoria University.

APPENDIX, No. 16.

PARER handed in by Mr. *D. C. Richmond*, 23rd May 1894.

RETURN, by COUNTIES, of Schemes approved by the QUEEN under the ENDOWED SCHOOLS ACTS, between the 1st of January and the 31st of December 1893, showing the Locality and Name of each Foundation, with Particulars of the Constitution of the Governing Body under each Scheme, in the following Form, viz. :—

LOCALITY.	Name of Foundation.	Date of Approval of Scheme.	Constitution as to Numbers and Composition of Governing Bodies under Scheme, viz. :—(*a*) Ex-officio ; (*b*) Co-optative ; (*c*) Representative ; and in what manner Elected.			REMARKS.
			(*a*)	(*b*)	(*c*)	
BERKS :						
Wantage	The Wantage Grammar School	23 Nov. 1893	—	2	11 Five by Governors of Town Lands of Wantage ; three by Vestry of parish of Wantage ; and three by Berkshire County Council.	
CHESTER :						
Over, and other places	The Darnhall School and Exhibition Foundation.	26 Aug. 1893	—	5	8 Two by Local Board of Winsford, in county of Chester, until there is District Council, and when there is District Council for any district including Winsford, two by District Council instead of two by Local Board ; two by School Board of Over ; one by ratepayers of township of Weaver ; one by ratepayers of township of Darnhall ; one by County Council of administrative county of Cheshire ; and one by Council of Victoria University, Manchester.	
CUMBERLAND :						
Carlisle	The Charity School and Technical Instruction Fund.	26 June 1893	—	—	10 Five by Dean and Chapter of Cathedral Church of Carlisle ; five by Municipal Corporation of Carlisle.	Case under Section 6, Endowed Schools Act, 1873.
ESSEX :						
Brentwood, in South Weald	Sir Anthony Browne's School and Almshouse Foundation.	30 Jan. 1893	—	3	10 Two by Essex County Council ; two by Justices of Peace for Petty Sessional Division of Brentwood ; one by Senate of University of London ; one by Board of Guardians of Billericay Union, or union in which for time being Brentwood is comprised ; one by Vestry of parish of South Weald ; two by Vestry of parish of Brentwood ; and one by Vestry of parish of Shenfield.	

Grays Thurrock	Palmer's Endowed School	30 Jan. 1893	—	5	10 One by Vicar and Churchwardens of parish of Grays Thurrock; two by Essex County Council; three by School Board of Grays Thurrock; three by Local Board of Grays Thurrock; and one by Guardians of Poor of Orsett Union.	
Saffron Walden	The Saffron Walden Exhibition Endowment.	30 Jan. 1893	—	—	—	Amending scheme. Governing body unaltered.
GLOUCESTER:						
Bristol	Loan Money Charity	16 May 1893	—	—	—	Scheme for uniting the endowment of this foundation with the Bristol Grammar School Foundation, the governing body of which remains unaltered under this scheme.
HEREFORD:						
Hereford	Hereford Cathedral Grammar School.	26 June 1893	Dean and Chapter of Hereford Cathedral Church.	—	—	Case of a Cathedral School under Section 19, Endowed Schools Act, 1869.
Hereford	Philpotts' Exhibitions and Scholarships.	26 June 1893	—	—	5 Three by Dean and Chapter of Cathedral Church of Hereford; one by Hereford County Council; one by City Council of Hereford.	Endowment limited to scholars in the Cathedral School.
HEREFORD and SALOP:						
Hereford and Ludlow	Dean Langford's Scholarships	26 June 1893	—	—	—	The Governors of the Philpotts' Exhibitions are constituted Governors under this Scheme. Case under Section 6, Endowed Schools Act, 1873.
SALOP:						
Ludlow	Ludlow Grammar School	26 Aug. 1893	—	—	—	Amending scheme. Governing body unaltered.
HERTFORD and BEDFORD:						
Markyate-street, St. John	Coppins Scholarship Foundation.	16 May 1893	1 Owner for time being of Mansion House, known as Markyate Cell, in Markyate-street, if willing to accept office.	3	3 One by School Board of Caddington; one by Trustees of Public Elementary School in Ecclesiastical District of Markyate-street known as Beechwood School; and one by Vicar and Churchwardens of Ecclesiastical District of Markyate-street.	
KENT:						
Wye	The School Foundation (Thornhill).	16 May 1893	—	3	4 Two by Vestry of parish of Wye; one by Vicar, Churchwardens, and Overseers of poor of parish of Wye; one by School Board of united school district of Wye.	

APPENDIX, No. 16.—Return, by Counties, of Schemes approved by the Queen under the Endowed Schools Acts, between the 1st of January and the 31st of December 1893— *continued.*

LOCALITY.	Name of Foundation.	Date of Approval of Scheme.	Constitution as to Numbers and Composition of Governing Bodies under Scheme, viz. :—(*a*) Ex-officio ; (*b*) Co-optative ; (*c*) Representative ; and in what manner Elected.			REMARKS.
			(*a*)	(*b*)	(*c*)	
KENT—*continued.*						
Wye—*continued* - -	The South Eastern Agricultural School and College.	16 May 1893	—	—	20 Nine by Kent County Council ; six by Surrey County Council ; one by Hebdomadal Council of University of Oxford ; one by Council of Senate of University of Cambridge ; one by Senate of University of London ; one by Council of Royal Agricultural Society of England ; and one by Council of Bath and West of England Agricultural Society.	There is also one hereditary governor, the Earl of Winchilsea, for time being.
LANCASTER :						
Broughton in Preston -	Broughton in Preston Grammar School Foundation.	30 Jan. 1893	—	3	7 One by Vicar and Churchwardens of Ecclesiastical Parish of St. John-the-Baptist, Broughton, in ancient parish of Broughton ; two by ratepayers of township of Broughton ; one by ratepayers of township of Haighton in Preston ; one by ratepayers of township of Barton in Preston ; one by Council of Victoria University ; one by governing body of grammar school at Preston, being head master of, or other master in that school, or some other fit person.	
Rivington (in Bolton-le-Moors).	Rivington and Blackrod Grammar School.	30 Jan. 1893	—	4	13 One by Council of St. John's College in University of Cambridge ; one by County Council of County Palatine of Lancaster ; one by Council of Victoria University ; two by ratepayers of townships or places of Rivington, Anglezarke, and Sharples Higher End ; two by ratepayers of townships of Heath Charnock and Anderton ; two by Local Board of Horwich ; one by Local Board of Adlington ; three by Local Board of Blackrod.	
LANCASTER AND YORK (WEST RIDING) :						
Rochdale - - - - -	Hardman's Endowment - -	16 May 1893	—	3	6 One by Lancaster County Council ; two by Town Council of Rochdale ; two by Rochdale School Board ; and one by Council of Victoria University, Manchester.	

LINCOLN:						
Parts of Lindsey - -	1. Queen Elizabeth's Grammar School, Alford. 2. The Brigg Grammar School. 3. The Caistor Grammar School. 4. Humberstone's New Foundation at Clee. 5. Queen Elizabeth's Grammar School at Horncastle. 6. King Edward VI. Grammar School and Hospital Foundation at Louth. 7. The De Aston School Foundation in parish of Market Rasen.	26 Aug. 1893	—	—	—	Amending scheme providing for the appointment, by the Lindsey County Council, of two representative governors on the governing body of each of these seven Foundations.
LONDON:						
Battersea - - - -	Sir Walter St. John's Schools -	23 Nov. 1893	—	5	8 Two by Lord of Manor of Battersea for time being; two by vestry of parish of Battersea; two by London County Council; and two by School Board for London.	
Bow - - - - -	The Sir John Jolles Exhibition Endowment.	30 Jan. 1893	—	—	—	The Drapers' Company are constituted governors under this scheme.
Deptford (St. Nicholas and St. Paul).	Addey's School - - -	26 Aug. 1893	—	3	11 Four by vestry of parish of St. Nicholas, Deptford; four by vestry of parish of St. Paul, Deptford; one by London County Council; one by School Board for London; and one by trustees of London Parochial Charities.	
NORTHAMPTON:						
Aynhoe - - - -	The Cartwright Exhibition Fund.	16 May 1893	3 Owner for time being of Aynhoe Park; County Councillor for time being for King's Sutton Electoral Division of Administrative County of Northampton; County Councillor for time being for Deddington Electoral Division of Administrative County of Oxford.	—	2 By vestry of parish of Aynhoe.	
SALOP:						
Wroxeter - - - -	Donnington Exhibition Foundation.	16 May 1893	—	2	7 Two by vestry of Wroxeter; two by vestry of Uppington; one by governors of Shrewsbury Free Grammar School; one by County Council of Administrative County of Salop, and one by owner for time being of estate, formerly belonging to Lord Newport, and afterwards to late Duke of Cleveland, in parishes of Wroxeter and Uppington, and elsewhere, in county of Salop.	

APPENDIX, No. 16.—Return, by Counties, of Schemes approved by the Queen under the Endowed Schools Acts, between the 1st of January and the 31st of December 1893—*continued*.

LOCALITY.	Name of Foundation.	Date of Approval of Scheme.	Constitution as to Numbers and Composition of Governing Bodies under Scheme, viz.: (*a*) Ex-officio; (*b*) Co-optative; (*c*) Representative; and in what manner Elected.			REMARKS.
			(*a*)	(*b*)	(*c*)	
SOUTHAMPTON:						
Holybourne - - -	Andrews' School - - -	16 May 1893	—	3	8 One by Governing Body of Eggar's Grammar School, Alton; one by Hampshire County Council; one by any body of persons established, or to be established, as a District Council for district in which Holybourne is or shall be situated, and meanwhile by Board of Guardians of Alton Union; five by an electing body, consisting of all the householders in the parish of Holybourne, such governors being householders, two in the parish of Holybourne, one in the parish of Alton, one in the parish of Binsted, and one in the parish of Froyle.	—
STAFFORD:						
Abbots Bromley - - -	Richard Clark's School - -	16 May 1893	—	—	—	The School Board of Abbots Bromley is constituted the Governing Body under this Scheme.
Walsall - - - - -	Queen Mary's Schools - -	28 July 1893	—	4 (of whom at least one is always to be a woman.)	11 Seven by Town Council of Walsall (of whom one is always to be a woman); four by School Board of Walsall (of whom one is always to be a woman).	—
SURREY:						
Farnham - - - - -	Farnham Grammar School -	30 Jan. 1893	—	3	9 One by Lord Bishop of Winchester; four by Surrey County Council; two by Local Board of Farnham; and two by Rural Sanitary Authority of Farnham.	—
Chertsey and other Places -	1. Sir William Perkins's School Foundation, Chertsey. 2. King Edward's Grammar School, Guildford. 3. The Kingston Endowed Schools. 4. The Reigate Grammar School.	16 May 1893	—	—	—	Amending Scheme providing for the appointment of representative governors by the Surrey County Council on the Governing Bodies of each of these foundations, as under:

Name of Foundation.	Number of Governors to be Appointed.
Sir William Perkins's School Foundation, Chertsey.	3
King Edward's Grammar School, Guildford.	2
Kingston Endowed Schools:	
Grammar School of Queen Elizabeth.	3
Tiffin's Boys' School - - -	3
Tiffin's Girls' School - - -	3
Reigate Grammar School - - -	3

WESTMORLAND:						
Crosby Garrett	The Crosby Garrett School and Exhibition Endowment.	26 Aug. 1893	—	2	5 One by rector and churchwardens of parish of Crosby Garrett; one by vestry of said parish; one by governing body of Kirkby Stephen Grammar School; and two by School Board of Crosby Garrett.	—
WORCESTER:						
Hanley Castle	Hanley Castle Grammar School	15 Mar. 1893	—	3	10 Two by ratepayers of ecclesiastical parish of Hanley Castle; two by ratepayers of ecclesiastical parish of Malvern Wells; one by County Council of Administrative County of Worcester; one by Council of Royal Agricultural Society; one by members of Worcestershire Chamber of Agriculture; one by Council of Mason Science College, Birmingham; two by Feoffees of Edward Hall's Charity in parish of Upton-upon-Severn.	
Upton-upon-Severn	Hall's Charity	15 Mar. 1893	—	—	—	Scheme for uniting part of the endowment of this foundation with the Hanley Castle Grammar School Foundation. (*See* above.)
Worcester	The Worcester Royal Free Grammar School and Almshouses.	15 Mar. 1893	—	2	12 Six by the six masters (The Governors and Supervisors of the Free School and Almshouses of the city of Worcester); four by the Council of the city of Worcester; and two by the School Board of Worcester.	The part of the endowment applicable for non-educational purposes is still to be administered by the six masters.
Worcester	Charities of Thomas and Ann Moore and John Dent.	15 Mar. 1893	—	—	—	Scheme for uniting the endowments of these foundations with the Worcester Royal Free Grammar School and Almshouses foundation. (*See* above.)
YORK (West Riding):						
Clifton and Hartshead (in Dewsbury).	The Armytage Exhibitions	12 Dec. 1893	1 Right heir for time being of Sir John Armytage, Bart., being Lord of Manor of Clifton, and of full age.	1	3 One by School Board of Hartshead; two by School Attendance Committee of Guardians of Poor of Halifax Union.	—

APPENDIX, No. 16.—Return, by Counties, of Schemes approved by the Queen under the Endowed Schools Acts. between the 1st of January and the 31st of December 1893—*continued.*

LOCALITY.	Name of Foundation.	Date of Approval of Scheme.	Constitution as to Numbers and Composition of Governing Bodies under Scheme, viz.: (*a*) Ex-officio; (*b*) Co-optative; (*c*) Representative; and in what manner Elected.			REMARKS.
			(*a*)	(*b*)	(*c*)	
YORK (West Riding):						
Drax	The Drax Schools	15 Mar. 1893	——	4	11 One by Lord Mayor, Aldermen, and Citizens of City of York, acting by Council of City; two by ratepayers of township of Drax; one by ratepayers of township of Camblesforth; one by ratepayers of township of Long Drax, otherwise Langrick; one by ratepayers of township of Newland; one by Board of Guardians of Selby Poor Law Union, until District Council of any district, including Drax, is established, and then one by such District Council instead of one by said Board of Guardians; one by County Council of Administrative County of West Riding of County of York; one by County Council of Administrative County of East Riding of County of York; one by Council of Yorkshire College at Leeds, and one by Council of Royal Agricultural Society.	
Heptonstall (in Halifax)	The Heptonstall Exhibitions	26 June 1893	3 Churchwardens of Ancient Chapelry of Heptonstall for township of Heptonstall, and Senior Churchwarden of said Chapelry for township of Wadsworth, respectively, for time being.	—	6 Three by School Board of Todmorden United District; one by Local Board of Hebden Bridge; one by Local Board of Todmorden, and one by Governing Body of Heath Grammar School, Halifax.	
Normanton, and other places.	Grammar School, and other Charities.	16 May 1893	——	2	11 Three by the Master and Fellows of University College, Oxford; one by Council of Yorkshire College at Leeds; one by County Council of Administrative County of West Riding of County of York; one by Local Board of Normanton; two by School Board of Normanton; one by Local Board of Altofts; one by School Board of Snydale, and one by Vestry of Ancient Parish of Warmfield.	The Girls' School of the Foundation is to be managed by a Governing Body, consisting of the governors and three women, each such woman being appointed by governors.

APPENDIX, No. 17.

PAPER handed in by Mr. *E. Tigar*, 20 June 1894.

Gentlemen, Treasury Chambers, 1st December 1887.

I AM directed by the Lords Commissioners of Her Majesty's Treasury to transmit herewith, for your information, a copy of a Minute of this Board dated the 25th ult., expressing an opinion upon the manner in which effect should be given to the changes brought about by Section 2 of the Act 50 & 51 Vict. c. 49, and as to the future number of your Board.

I am to convey to you an intimation of their Lordships' concurrence in the views stated in the Minute.

I am, &c.

The Charity Commissioners. (signed) *R. E. Welby.*

TREASURY MINUTE, dated 25th November 1887.

The First Lord calls the attention of the Board to the Charity Commissioners (Officers) Act, which has this day received the Royal Assent.

1. He states that when the provision of the Act substituting Assistant Commissioners for Inspectors was under his consideration, he had the opportunity of discussing with the Chief Commissioner various points connected with the constitution of the Commission, and he desires to place on record the conclusion at which he arrived.

2. The Charity Commission as originally constituted, consisted of four members, viz., a Chief Commissioner, two paid Commissioners, and one unpaid Commissioner.

3. The Act 37 & 38 Vict. c. 87, transferred the powers and duties of the Endowed Schools Commission to the Charity Commission, and empowered Her Majesty to appoint two additional paid Charity Commissioners and an additional paid Secretary. This Act, however, so far as relates to the salaries of these two Commissioners and of the Secretary was temporary, and authority to pay their salaries is continued only by the Annual Expiring Laws Act. There is now no second Secretary, and the salaries of the two additional Commissioners are only voted upon the current Estimates to the 31st December next. The temporary nature of these additional appointments is therefore well established, and it may be fairly anticipated before long that the task entrusted to them will be so far completed as to enable the intentions of Parliament to be fulfilled.

4. A third Act, 46 & 47 Vict., c. 36, sanctioned the appointment of two more Charity Commissioners for the purposes of the City of London Parochial Charities Act. The appointment of these additional Commissioners is now valid under a power conferred on Her Majesty in Council to extend the appointment to the end of the year 1889.

5. At the present time there are altogether six paid Commissioners and one unpaid or Parliamentary Commissioner.

6. The First Lord cannot but think that such a number of Commissioners is in excess of the requirements of the Public service, and it is hoped by the provisions of the Act which sanction the extension for general purposes of the staff of Assistant Commissioners, to prepare the ground for the ultimate reduction of the present number.

7. The First Lord thinks, therefore, that the approval of the Treasury should be given to the appointment of additional Assistant Commissioners, beyond the number proposed to be appointed under the arrangement made for the abolition of the office of Inspector, only on the condition that the number of temporary Commissioners is reduced with as little delay as possible.

8. At the same time care must be taken in carrying out such a condition that temporary Commissioners without right to pension are not replaced by permanent Assistant Commissioners with right to pension, so as to cause an increase of charge.

9. The First Lord cannot but hope that at no very remote period and when the subordinate staff is properly organised for the purpose, the number of paid Commissioners may be reduced to their nominal number of three, and that such of the powers of the Endowed Schools Act as Parliament may see fit to retain may be permanently vested in the original Charity Commissioners.

10. The Treasury should, therefore, keep steadily in view a limitation of the apparently unlimited time for which the temporary provisions of the Endowed Schools and City Charities Acts may be extended.

APPENDIX, No. 18.

PAPER handed in by Mr. *G. W. Kekewich*, C.B., 20 June 1894.

RETURN showing the Work of the EDUCATION DEPARTMENT under the Endowed Schools Acts, from 1st January 1884 to the present time.

YEAR.	Number of Approvals.	Number remitted with a Declaration.	Number Disapproved.	Number in which Petitions were received to lay Scheme before Parliament.	Number in which Petitions were received by Privy Council Office to lay Scheme before Judicial Committee.	Motion for an Address.		Agreed to, or carried on Division.	Negatived or Withdrawn.
						House of Lords.	House of Commons.		
1884	24	2	—	3	2	—	—	—	—
1885	17	2	—	1	—	—	—	—	—
1886	32	—	—	3	1	—	—	—	—
1887	31	2	—	3	1	3	—	2	1
1888	29	8	4	—	2	—	—	—	—
1889	25	8	—	1	—	—	—	—	—
1890	25	4	—	11	1	—	1	—	1
1891	37	2	1	—	—	—	1	—	1
1892	32	8	—	—	—	—	—	—	—
1893	41	11	2*	5	—	4	—	3	1
1894 (12 June.)	19	4	4†	3‡	1§	2	—	1	1
TOTALS	312	51	11	30	8	9	2	6	5

* One was a scheme of the Charity Commissioners, and one was a scheme of the Joint Education Committee.

† Three were schemes of the Charity Commissioners, and one was a scheme of the Joint Education Committee.

‡ One now before Parliament.

§ Now before Parliament.

APPENDIX, No. 19.

PAPER handed in by Mr. *G. W. Kekewich*, C.B., 20 June 1894.

A List of Schemes laid before Parliament since the Year 1884.

No.	Name.	Date when so laid.	Reason.	Motion for an Address.		Agreed to or Carried on Division.	Negatived or Withdrawn.
				House of Lords.	House of Commons.		
648	Christ's Hospital	8 May 1890	Petition to E.D.	—	* 12 June 1890 1 July „	—	Negatived. ditto.
769	Kendal Grammar School, &c.	6 July 1885 again 25 January 1886	ditto	No motion made.		—	—
787 and 787a	West Lavington and Wilts County School	1 February 1887	ditto	29 March 1887	—	Agreed to.	—
811	Hemsworth and Barnsley, Holgate's School	18 March 1887	By an Order in Council	10 May „	—	—	Negatived.
814	Uttoxeter Grammar School, &c.	25 January 1886	ditto ditto				
827	Earls Colne Grammar School	31 August 1886 again 1 February 1887	Petition to E.D.				
833	Haworth Grammar School	5 April 1886	ditto				
842	Hitchin Grammar School	20 February 1888	By an Order in Council				
843	Holwell Rand's Foundation	20 „ „	ditto ditto				
845	Southwark, St. Olave's	13 „ 1890	Petition to E.D.	No motion made.		—	—
909	Cardiff, Wells' Charity	22 „ 1889	ditto				
923	Handsworth Bridge Trust	5 June 1890	By an Order in Council				
934	Bromyard Grammar School, &c.	22 February 1890	Petition to E.D.				
945 to 949	Dulwich College of God's Gift, and four other Schemes	2 December 1890	ditto				
956	Barkisland Endowed School	30 May 1893	ditto	23 June 1893	—	Carried on Division.	—
1,009	Ludlow Grammar School	23 June 1893	ditto	No motion made.		—	—
	Welsh Schemes:						
1	Carnarvon County	9 February 1893	Petition to E.D.	24 March 1893	—	—	Withdrawn.
2	Swansea Grammar School	10 May 1894	By an Order in Council	Now before Parliament.		—	—
4	Cardigan County	21 July 1893	Petition to E.D.	* 4 September 1893	—	Carried on Division.	—
6	Merioneth County	31 August 1893	ditto	* 4 „ „	—	ditto.	—
8	Flint County	29 March 1894	ditto	* 17 April 1894	—	ditto.	—
9	Anglesey County	29 „ „	ditto	17 „ „	—	—	Negatived.
11	Denbigh County	29 May „	ditto	Now before Parliament.		—	—
	City of London Scheme:						
1	Central Scheme	3 July 1890 again 2 December 1890	Petition to E.D.	—	26 January 1891	—	Negatived.

* Part of Scheme objected to.

APPENDIX, No. 20.

PAPER handed in by Sir *Henry Longley*, K.C.B., 27th June 1894.

WELSH INTERMEDIATE

COURSE of PROCEDURE in the case of certain

	Published by Charity Commissioners.	Submitted by Charity Commissioners to Education Department.		Remission with Declaration by Education Department to Charity Commissioners of Charity Commissioners' Scheme.	Refusal of Charity Commissioners to amend Charity Commissioners' Scheme.	*Remission with Declaration by Education Department to Charity Commissioners of Joint Education Committee's Scheme.*
		Scheme of Charity Commissioners.	*Scheme of Joint Education Committee.*			
	(1.)	(2.)	(3.)	(4.)	(5.)	(6.)
1892 :						
23 March - -	Cardigan.	—	—	—	—	—
26 July - -	Montgomery.	—	—	—	—	—
13 December -	Merioneth.	—	—	—	—	—
1893 :						
26 January -	Flint.	—	—	—	—	—
21 February -	Denbigh.	—	—	—	—	—
27 February -	—	Cardigan -	*Cardigan.*	—	—	—
22 March - -	—	Montgomery.	—	—	—	—
30 March - -	—	Merioneth -	*Merioneth.*	—	—	—
26 April - -	—	—	—	Cardigan.	—	—
10 May - -	—	—	—	—	Cardigan.	—
15 May - -	—	—	—	—	—	—
17 June - -	—	—	—	Merioneth.	—	—
21 June - -	—	—	—	—	—	—
22 June - -	Monmouth -	—	—	—	—	—
10 July - -	—	Flint - -	*Flint.*	—	—	—
22 July - -	—	—	—	Montgomery.	—	—
29 July - -	—	—	—	—	—	—
2 August - -	—	—	—	—	—	—
25 August - -	—	Denbigh -	*Denbigh.*	—	—	—
*4 September -	—	—	—	—	—	—
9 November -	—	—	—	Flint.	—	—
23 November -	—	—	—	—	—	—
25 November -	—	—	—	—	Flint.	—
30 December -	—	Monmouth -	*Monmouth.*	—	—	—
1894 :						
12 January -	—	—	—	—	—	*Flint* - -
15 January -	—	—	—	—	—	—
7 February -	—	—	—	—	—	*Denbigh.*
23 February -	—	—	—	—	—	—
3 March - -	—	—	—	—	—	—
17 April - -	—	—	—	—	—	—
15 May - -	—	—	—	—	—	—
19 June - -	—	—	—	—	—	—

*The line drawn below the date of 4th September 1893 indicates that all subsequent proceedings were taken with notice

APPENDIX, No. 20.

PAPER handed in by Sir *Henry Longley*, K.C.B., 27th June 1894.

EDUCATION ACT, 1889.

County Schemes up to 23rd June 1894.

Submission by Charity Commissioners to Education Department of Amendments in		Approval by Education Department of		Partial Rejection by House of Lords of		Approval by Her Majesty of	
Charity Commissioners' Scheme.	*Joint Education Committee's Scheme.*	Charity Commissioners' Scheme.	*Joint Education Committee's Scheme.*	Charity Commissioners' Scheme.	*Joint Education Committee's Scheme.*	Charity Commissioners' Scheme.	*Joint Education Committee's Scheme.*
(7.)	(8.)	(9.)	(10.)	(11.)	(12.)	(13.)	(14.)
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—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	*Cardigan.*	—	—	—	—
—	—	—	—	—	—	—	—
Merioneth.	—	—	—	—	—	—	—
—	—	Merioneth.	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
Montgomery.	—	—	—	—	—	—	—
—	—	Montgomery.	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	Merioneth -	*Cardigan.*	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	Merioneth, Montgomery	—
—	—	—	—	—	—	—	*Cardigan.*
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	*Flint.*	—	—	—	—	—	—
—	—	—	*Flint.*	—	—	—	—
—	—	—	—	—	—	—	—
—	*Denbigh.*	—	—	—	—	—	—
—	—	—	*Denbigh.*	—	—	—	—
—	—	—	—	—	*Flint.*	—	—
—	—	—	*Monmouth.*	—	—	—	—
—	—	—	—	—	*Denbigh.*	—	—

of the action taken on that date by the House of Lords in respect of the Scheme for the county of Merioneth.

APPENDIX, No. 21.

PAPER handed in by Sir *Henry Longley*, K.C.B., 27 June 1894.

First Flintshire Clause. (Q. 3936.)

Subject to the provisions of the next foregoing clause, the following provisions shall take effect:—

(a) In a hostel or boarding-house of a school scholars shall be allowed to attend such places of worship and to have reasonable facilities for religious instruction from such religious teachers as their parents may choose for them.

(b) Christian family worship shall be held daily in the hostel or boarding-house [but in the family worship so held the formularies of any particular denomination shall not be used.

(c) In the course of any general Christian religious teaching given in the hostel or boarding-house, the formularies of any particular denomination shall not be used, nor shall the distinctive tenets of any particular denomination be taught, provided that the person in charge of a boarding-house [if he so chooses] [if the County Governing Body so allow and subject to any regulations they may make on the subject] may, separately from such general religious teaching (if any), give, either by himself or by deputy, religious instruction of a denominational character, but only to those scholars whose parents have, in writing, expressed a wish for such instruction.]

Second Flintshire Clause. (Q. 3938.)

In boarding-houses or hostels which form part of the endowment of a school, or which receive assistance from the general fund or from the district fund, or in the management of which a paid school official takes part, the following provisions shall take effect:—

(a) Scholars shall attend such places of worship and shall have reasonable facilities for religious instruction from such religious teachers as their parents may choose for them.

(b) Christian family worship shall be held daily in the house, but in the family worship so held the formularies of any particular denomination shall not be used.

(c) In the course of any Christian religious teaching given in the house, the formularies of any particular denomination shall not be used, nor shall the distinctive tenets of any particular denomination be taught.

In the case of boarding-houses which do not receive assistance from public funds, and in the management of which no paid school official takes part, scholars whose parents desire their exemption from attending prayer and religious worship, or from any lesson or series of lessons on a religious subject, shall be entitled to have such exemption without being deprived of any advantage or emolument to which such scholars would otherwise have been entitled.

Any parent of a scholar who may be dissatisfied with the manner in which the provisions of this clause are carried out may make a complaint, in writing, to the County Governing Body, who shall hear the complainant, and inquire into the circumstances, and if the complaint is judged reasonable, shall make all proper provisions for remedying the matter complained of.

Note.—The passage enclosed in red brackets is the "Education Department Amendment" substituted for the preceding passage enclosed in black brackets. This amendment was adopted by the Charity Commissioners in their own scheme only in the case of Merioneth (Q. 3938); it was inserted in the schemes of the Joint Education Committees in the cases of Flint and Denbigh.

The passage enclosed in blue brackets is that expunged from the (amended) schemes of the Charity Commissioners in Merioneth and of the Joint Education Committees in Flint and Denbigh.

APPENDIX, No. 22.

PAPER handed in by Sir *Henry Longley*, K.C.B., July 1894.

STATEMENT showing, for each Month in each of the Years 1887 to 1893 (inclusive), the Number of Meetings of the BOARD OF CHARITY COMMISSIONERS for *England* and *Wales*, and the Maximum and Minimum Number of Commissioners attending those Meetings (exclusive of the Parliamentary Commissioner and of the Commissioners appointed under the City of London Parochial Charities Act, 1883).

MONTH.	1887.			1888.			1889.			1890.			1891.			1892.			1893.			*Average Number of Commissioners Attending.*
	Number.	Maximum.	Minimum.	Number.	Maximum.	Minimum.	Number.	Maximum.	Minimum.	Number.	Maximum.	Minimum.	Number.	Maximum.	Minimum.	Number.	Maximum.	Minimum.	Number.	Maximum.	Minimum.	
January	8	5	3	8	5	3	9	5	3	9	5	2*	9	5	2*	9	5	2	9	5	2	*4·13*
February	8	5	3	8	5	4	9	5	5	8	5	4	8	5	5	8	5	3	8	5	5	*4·77*
March	9	5	3	10	5	3	9	5	4	8	5	4	8	5	2	9	5	3	8	5	3	*4·49*
April	6	5	4	6	5	2	6	5	2*	7	5	2	8	5	2	6	5	2	6	5	4	*4·22*
May	7	5	4	8	5	2	9	5	4	8	5	2	8	5	2	9	5	5	8	5	2	*4·42*
June	7	5	3	9	5	3	7	5	2	8	5	4	9	5	3	7	5	3	9	5	4	*4·41*
July	10	5	3	9	5	5	9	5	3	9	5	4	9	5	5	9	5	4	8	5	4	*4·7*
August	9	4	2	6	4	2	5	3	2	8	5	2	7	5	2*	9	4	2	9	5	2	*3·08*
September	2	2	2	2	2	2*	3	2	2*	–	–	–	2	2*	2*	–	–	–	5	5	2*	*2·29*
October	4	4	3	5	5	2	8	4	2	7	5	2	8	4	2*	7	4	2	5	5	2	*2·89*
November	9	5	3	9	5	4	9	5	4	8	5	4	8	5	4	9	5	3	8	5	4	*4·6*
December	6	5	5	6	5	4	7	5	3	8	5	2	7	5	2	8	5	3	8	5	2	*4·6*
TOTAL	85	–	–	86	–	–	90	–	–	88	–	–	91	–	–	90	–	–	91	–	–	–

* The requisite quorum (two) for the purpose of twelve Boards held during the months in which the figure of minimum attendance is marked with an asterisk, was constituted by the additional presence either of the Parliamentary Commissioner or of one of the Commissioners appointed under the City of London Parochial Charities Act, 1883.

THE foregoing Tables include all meetings of the Board to which every member of the Board is summoned, *i.e.*, all ordinary meetings, and all special meetings for the transaction of other than formal business..

Besides these Boards, there are held certain Special Boards for the transaction exclusively of formal business; to these Boards it is not the practice to summon more than the number of Commissioners (*two*, Charitable Trusts Act, 1853, sect. 6) necessary to form a quorum.

The number of these special Boards and the total number of all Boards held during each of the years in question is as follows:—

MEETINGS OF BOARD OF CHARITY COMMISSIONERS, 1887–1893.

YEAR.	Special Boards for Formal Business only.	Other Boards.	TOTAL.
1887	8	85	93
1888	21	86	107
1889	10	90	100
1890	12	88	100
1891	7	91	98
1892	1	90	91
1893	10	91	101

APPENDIX, No. 23.

PAPER handed in by *Sir Henry Longley*, K.C.B., 25 May 1894.

CHARITABLE TRUSTS ACTS, 1853–1891.

Charitable Trusts Act, 1853, 16 & 17 Vict. c. 137.
" " 1855, 18 & 19 Vict. c. 124.
" " 1860, 23 & 24 Vict. c. 136.
" " 1862, 25 & 26 Vict. c. 112.
" " 1869, 32 & 33 Vict. c. 110.
" " 1887, 50 & 51 Vict. c. 49.
Charitable Trusts (Recovery) Act, 1891, 54 Vict. c. 17.

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" " 1869, s. 12.
" " 1887, s. 5.

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(*d.*) The deposit and safe custody of Title Deeds and Documents - - - - - - - - 418

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" " 1862, s. 1.
" " 1869, ss. 1, 3, 17.
" " 1887, s. 1, 6.
Charitable Trusts (Recovery) Act, 1891, ss. 1, 2.

NOTE.—**Any section or portion of a section of the following Acts which is now repealed is printed in italics.**

The only additions made to the original text of the Acts relate mainly to repeals, and are contained either in the marginal notes printed in italics within square brackets, or in the footnotes.

I. Constitution and Proceedings of Charity Commissioners:

CHARITABLE TRUSTS ACT, 1853, ss. 1–8, 60.
" " 1855, ss. 2–5, 9.
" " 1860, ss. 8, 9, 20–22, 24.
" " 1869, ss. 5, 6, 8, 10, 11, 16.
" " 1887, ss. 2, 3.

CHARITABLE TRUSTS ACT, 1853, ss. 1- 8, 60.

1. It shall be lawful for Her Majesty **and Her successors*, by Warrant under the Royal Sign Manual, to appoint four Commissioners, and also one secretary †*and two inspectors* for the purposes of this Act, and upon any vacancy by the death, resignation, or removal of any Commissioner, secretary, †*or inspector* under this Act, from time to time in like manner to appoint another person to succeed to such vacancy, and until a fresh appointment shall be made, it shall be lawful for the surviving or continuing Commissioners, in case of any vacancy, to act as if no such vacancy had occurred; and three of the said Commissioners shall hold office during good behaviour; and the fourth, and every secretary †*and inspector* to be appointed under this Act, shall hold office during the pleasure of Her Majesty.

Her Majesty empowered to appoint Charity Commissioners, Secretary, and Inspectors.
[**Repealed by Statute Law Revision Act*, 1892.]
[†*Repealed by the Charitable Trusts Act*, 1887, *s.* 6. *By that Act Assistant-Commissioners are substituted for Inspectors.*]

2. The said three Commissioners so holding office during good behaviour shall be paid as hereinafter mentioned, and two at least of the said paid Commissioners for the time being shall be barristers-at-law of not less than 12 years standing at the time of their respective appointments, and one of such barristers shall be the Chief Commissioner, and shall be so called and distinguished in his appointment.

Qualification of Commissioners.

3. The said Commissioners, with the sanction of the **Commissioners of Her Majesty's* Treasury, shall from time to time appoint such clerks and messengers as the said Commissioners may think fit, and all persons appointed under this provision shall hold their offices during the pleasure of the said Commissioners.

Officers of the Board.
[**Repealed by Statute Law Revision Act*, 1892.]

4. **There shall be paid to the said paid Commissioners and to the said secretary, inspectors, clerks, and messengers, such salaries not exceeding for the Chief Commissioner the annual sum of one thousand five hundred pounds, and for each of the other paid Commissioners the annual sum of one thousand two hundred pounds, and for the said secretary the annual sum of six hundred pounds, and for each of the said inspectors the annual sum of eight hundred pounds, as shall be from time to time allowed by the Commissioners of Her Majesty's Treasury, who may also allow to every Commissioner, inspector, and other person appointed for the purposes of this Act such reasonable travelling and other expenses as may be incurred by him in the execution of his office, and the said salaries and expenses, and the incidental expenses of the said Board, shall be paid out of any monies which may be from time to time provided by Parliament for that purpose. Provided always, that, after the thirty-first day of March, in the year one thousand eight hundred and fifty-seven, the said annual salary shall be paid to one only of the said Commissioners beside the said Chief Commissioner.*

Salaries.
[**Repealed by the Charitable Trusts Act*, 1887, *s.* 6; *and see footnote.*]

5. No paid Commissioner, secretary, or * inspector to be appointed under this Act shall be capable of sitting in the House of Commons during the tenure of his office.

No paid Commissioner, Secretary, or Inspector to sit in House of Commons.
[* *Now "Assistant Commissioner."*]

6. The said Commissioners to be appointed under this Act shall be styled "The Charity Commissioners for England and Wales," and may have and use a seal for authenticating documents, and such Commissioners shall sit from time to time as a Board for carrying this Act into execution; and any two of such Commissioners may form a Board, and may exercise all or any of the powers conferred on the Commissioners or the Board by this Act.

Style of Commissioners, who may sit as a Board.

7. The said Board shall, by general minutes, from time to time prescribe regulations for their proceedings and the proceedings of their inspectors, and concerning the form and manner of applications to the said Board, and the conditions to be performed by applicants, and for the guidance of applicants in relation thereto, and all such general minutes shall be signed by three of the said Commissioners at the least; and copies of all such general minutes shall be laid before both Houses of Parliament within 14 days after the making thereof if Parliament be sitting, or if Parliament be not sitting, then 14 days after the next meeting thereof.

Board to frame General Minutes.

8. The said Board shall cause minutes of their proceedings, and all orders, certificates, and schemes, made or approved by them under this Act, to be entered in books to be provided and kept for such purpose, and all such entries shall be signed by their secretary, and all copies purporting to be extracted from the books of the said Board, and to be certified by their secretary, of any such minutes, orders, certificates, and schemes entered as aforesaid, shall be received as evidence of the proceedings to which such minutes shall relate, and of such Orders, Certificates, or Schemes, and of the making or approval thereof (as the case may require) by the said Board, without further proof thereof.

Minutes of Proceedings and Orders, &c., to be entered, and Copies of Entries signed by the Secretary to be received in Evidence.

* * * * * * * * *

60. The said Board shall in the month of February in every year make a Report to Her Majesty of all their proceedings during the preceding year up to the thirty-first day of December then last past, and such Report shall within fourteen days after the making thereof be laid before both Houses of Parliament, if Parliament be then sitting, or otherwise within fourteen days after the meeting thereof; and in such Report the said Board shall specially distinguish and set forth in full all the *schemes (if any) approved by them under the provisions lastly hereinbefore contained, together with the grounds of such their approval, and the objections (if any) which have been made thereto, and all proceedings had in respect of such objections and the grounds on which any such objections have been overruled; and in case it shall be enacted by any Act of Parliament that any such scheme or schemes so certified shall be confirmed and take effect, either with or without any alterations or modifications thereof respectively, every such Act shall be deemed a public general Act.

Annual Report to be laid before Parliament, which shall set forth all the Schemes approved.
[**The Schemes here referred to are "Parliamentary Schemes," as to which see pages* 421, 422.]

NOTE.—*Section* 4 *of the Charitable Trusts Act*, 1853, *was, prior to* 1887, *repealed in part by the Charitable Trusts Act*, 1855, *Section* 2, *and in part by the Endowed Schools Act*, 1874, *Section* 3. *By the last-mentioned section it is enacted that*—"*There shall be paid to the Commissioners, their secretary or secretaries, assistant commissioners, inspectors, officers, and clerks, whether appointed under this Act or under the said Charitable Trusts Acts, out of moneys provided by Parliament, such salaries as the Treasury may from time to time determine. Provided that no decrease shall be made in pursuance of this section in the salary of any Charity Commissioner, secretary, inspector, officer, or clerk appointed before the passing of this Act under the said Charitable Trusts Acts, or any of them.*"

CHARITABLE TRUSTS ACT, 1855, ss. 2–5, 9.

Provision as to the Salary of One of the Commissioners repealed. [**Repealed by Statute Law Revision Act*, 1875. *See also footnote* p. 397.]

2.* *So much of the principal Act (Section IV.) as provides that after the 31st March 1857, an annual salary shall be paid to one only of the Commissioners besides the Chief Commissioner is hereby repealed.*

Power to appoint additional Inspectors. [* *Repealed by Charitable Trusts Act*, 1887, *s.* 6.]

3.* *It shall be lawful for Her Majesty and Her Successors, under the Royal Sign Manual, to appoint additional inspectors (not exceeding three in number) for the purposes of this Act and the Charitable Trusts Act*, 1853, *and such additional inspectors shall hold office during pleasure, and shall be possessed of the same powers, authorities, and jurisdiction, and be entitled to the same privileges and emoluments as the inspectors appointed under the said former Act of one thousand eight hundred and fifty-three.*

The Acts of the Board, how to be authenticated. [† *Repealed by Charitable Trusts Act*, 1887, *s.* 6.]

4. Every Act of the Board may be sufficiently authenticated by the seal of the Commissioners, and the signature of their Secretary,† *or in his absence of the Chief Clerk.*

Entries in and Extracts from the Books of the Board, how to be authenticated. [* *Repealed by Charitable Trusts Act*, 1887, *s.* 6.]

5. All orders, certificates, schemes, and other documents issued under the seal of the Board shall be deemed and taken to be the originals, and copies thereof shall be entered in the books of the Board, and all such entries may be sufficiently certified by the signature of the secretary, **or in his absence of the Chief Clerk.* Every order, certificate, scheme, and other document purporting to be sealed with the seal of the Board shall be received in evidence without further proof; and any writing purporting to be a copy extracted from the said books, and to be certified as aforesaid, shall be received in evidence in like manner.

Persons not complying with Requisitions, &c., to be deemed guilty of a contempt of the Court of Chancery.

[* *See p.* 400.]

9. Any person refusing or wilfully neglecting to comply with any such requisition, or with any Order of the Board, made under the provisions of this Act or the principal Act, or destroying or withholding any document required to be produced or transmitted by him, shall be taken to be guilty of a contempt of the High Court of Chancery, and shall be liable to be attached and committed by such Court, on summary application by the Commissioners to the same Court or to any judge thereof, and shall pay such costs attending such contempt as the said Court or judge shall direct: Provided always that the Court may at any time discharge, on such terms as it may deem just, any person attached or committed on any such application, or on any application made under *Section 14 of the principal Act.

CHARITABLE TRUSTS ACT, 1860, ss. 8, 9, 20–22, 24.

Power to appeal against Orders of Board. [**See Charitable Trusts Act*, 1860, *s.* 4, *p.* 417.]

8. The Attorney General, or any person authorised by him or by the said Board, in the case of any charity whatever may be the yearly income of its endowments, and any trustee or person acting in the administration of or interested in any charity of which the gross yearly income to be *calculated in manner aforesaid shall exceed fifty pounds, or any two inhabitants of any parish or district in which the same shall be specially applicable, may, within three calendar months next after the definitive publication of any order of the said Board appointing or removing a trustee or trustees, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate, or establishing a scheme for the administration of the charity, present a petition to the High Court of Chancery in a summary way, appealing against such order, and praying such relief as the case may require; and any schoolmaster or schoolmistress or other officer removed by the order of the Board, without the concurrence of the trustees or persons acting in the administration of the charity, or a majority of them, and without the approval of a special visitor, if any, of the charity, may, within two calendar months (next after his or her removal), appeal in like manner against the order of removal; and the Court, upon or before the hearing of any such petition of appeal as aforesaid or at any stage of the proceedings, may require, if it shall think fit, from the said Board, their reasons for making the order appealed against, or for any part of such order, and may remit the same to the Board for reconsideration, with or without any declaration in relation thereto, or may make any substitutive or other order in relation to the matter of the appeal, as it shall think just; and the Court may make any order respecting the costs, charges, or expenses incident to the appeal, and may also, before hearing or proceeding with the same, require from any appellant, other than the Attorney General, proper security for such costs, charges, and expenses as may be eventually payable by him; but no such petition of appeal shall be presented by any person, other than the Attorney General, before the expiration of twenty-one days after written notice under the hand of such appellant, of his or her intention to present such petition, shall have been delivered to the said Board at their office.

Who may be the respondent on appeals.

9. The Attorney General, if he shall think fit, or any person authorised by him or by the said Board, may appear as the respondent upon any such appeal, and the Court may make any order respecting the costs, charges, and expenses of the Attorney General or other defendant.

Orders to be enforceable, &c., as orders under former Acts. [* *See Charitable Trusts Act*, 1853, *s.* 14 (p. 400), *and Charitable Trusts Act*, 1855, *s.* 9, *ante.*]

20. All orders made by the said Board under the provisions of this Act shall be enforceable* by the same means, and shall be subject to the same provisions as are applicable under the Charitable Trusts Act, 1853, and the Charitable Trusts Amendment Act, 1855, respectively, to any orders of the said Board made thereunder.

Board to make Minutes.

21. The said Board shall from time to time make such minutes as shall be required relative to the institution and conduct of their proceedings under the jurisdiction created by this Act.

Salary of Secretary. [* *Repealed by Endowed Schools Act*, 1874, *s.* 3; *see also footnote* p. 397.]

22.* *There shall be paid to the secretary for the time being of the said Commissioners, in consideration of the increase and extent of his official duties, such a salary, not exceeding the annual sum of eight hundred pounds, in lieu of the salary payable to him under the firstly-cited Act, as shall from time to time be allowed by the Commissioners of Her Majesty's Treasury.*

24. **Every*

24.* *Every Commissioner, secretary, and inspector acting under or employed for the purposes of the said Acts shall be exempt from serving on juries while he shall be so acting or employed.*

Commissioners, &c., exempt from serving on Juries.
[* *Repealed by Statute Law Revision Act, 1875, as inconsistent with Jurors Act, 1870.*]

CHARITABLE TRUSTS ACT, 1869, ss. 5, 6, 8, 10, 11, 16.

5. An application to the Board of Charity Commissioners for England and Wales, for the purposes of the Charitable Trusts Acts, 1853 to 1869, when made by the trustees or persons acting in the administration of the charity, may be made in writing signed by any person authorised in that behalf by a resolution passed by a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question.

Mode of application to Board.

6. The Board shall be deemed to have and to have always had power in any order made upon an application to them, for the exercise of their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, to insert in the order any incidental provisions which they think expedient for carrying into effect the substantial objects of the application, and which they would have had power to insert if such provisions had been included in the application.

Powers of Board on application.

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8. The Board shall be deemed to have and to have always had power with or without any application to discharge, within twelve months after an order is made by them, the whole or any part of any order appearing to have been made by them by mistake or on misrepresentation, or otherwise than in conformity with the Charitable Trusts Acts, 1853 to 1869.

Every order made by the Board, in exercising their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, shall, until discharged or varied by the Board or by the Court of Chancery on appeal under Section 8 of the Charitable Trusts Act, 1860, have effect according to its tenour.

Every order of the Board shall, subject to all powers which the Court of Chancery has to discharge or vary it, under Section 8 of the Charitable Trusts Act, 1860, and subject to the power of the Board to discharge it wholly or partially for the causes mentioned in this section, be deemed to have been duly and formally made, and no objection thereto on the ground only of irregularity or informality shall be entertained.

Discharge of order of Board for irregularity.

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10. A petition to the Court of Chancery under Section eight of the Charitable Trusts Act, 1860, may be presented in the case of all charities by the same persons only as in the case of a charity the gross annual income of which does not exceed fifty pounds.

Appeals under 23 & 24 Vict. c. 136.

11. A petition shall not be presented to the Court of Chancery by any person under Section eight of the Charitable Trusts Act, 1860, before the expiration of twenty-one days after written notice under the hand of the appellant of his intention to present such petition has been served on the Attorney-General by delivering the same to the solicitor who acts for him in ex-officio proceedings relating to charities.

Service of Attorney-General by appellant under Sect. 8 of 23 & 24 Vict. c. 136, s. 8.

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16. The **Lords Commissioners of Her Majesty's* Treasury may from time to time prescribe a scale of fees to be charged for any business done by the Board under this or any other Act, and may direct whether the same shall be imposed by stamps or otherwise, and by whom and in what manner the same shall be collected, accounted for, and appropriated; and before any such fees shall be taken or received by the said Charity Commissioners every such scale of fees shall be published in the "London Gazette." The scale of fees shall be laid before both Houses of Parliament within thirty days after the same has been so prescribed if Parliament is then sitting, and if not, within thirty days after the then next meeting of Parliament; and if any such scale shall be disapproved of by both Houses of Parliament, within one month after the same shall have been so laid before Parliament, such fees or such parts thereof as shall be disapproved of shall not be charged by the Board.

Treasury to fix scale of fees.
[**Repealed by Statute Law Revision (No. 2) Act, 1893.*]
Scale to be laid before Parliament.

CHARITABLE TRUSTS ACT, 1887, ss. 2, 3.

2.—(1.) The Charity Commissioners for England and Wales (in this Act referred to as "the Board") may from time to time with the approval in each case of the Commissioners of Her Majesty's Treasury (in this Act referred to as the Treasury) appoint Assistant Commissioners, and may remove any such Assistant Commissioner.

Appointment of Assistant Commissioners.

(2.) The number and salaries of the Assistant Commissioners under this Act shall be such as the Treasury may from time to time sanction.

(3.) Each Assistant Commissioner under this Act shall have the same powers as an inspector under the Charitable Trusts Acts, 1853 to 1869, and the sections* of the Charitable Trusts Acts, 1853 to 1869, specified in the First Schedule to this Act, shall have effect as if "Assistant Commissioner" or "Assistant Commissioners" were therein substituted for "inspector" or "inspectors," as the case may be, and each Assistant Commissioner acting under the authority of the Board may exercise the said powers for any purpose of or incidental to any duties imposed on the Board by Parliament under any present or future Act.

[* *Charitable Trusts Act, 1853, ss. 5, 9, 10, 11, 12, 14, 15, 19, 23, 54, 56, 57, and 58; Charitable Trusts Act, 1855, ss. 6-8; Charitable Trusts Act, 1860, s. 6; Charitable Trusts Act, 1869, s. 9.*]

(4.) The power of appointing inspectors under the Charitable Trusts Acts, 1853 to 1869, shall cease.

3. The signature of any officer of the Board (whether assistant secretary or other) who for the time being is authorised by an order of the Board signed by two Commissioners to act on behalf of the Secretary of the Board shall, for all purposes of the Charitable Trusts Acts, 1853 to 1869, or any other enactment, be as valid as the signature of the Secretary; and a reference in any enactment to the signature of the Secretary shall include a reference to the signature of such officer, and any document signed by an officer expressed to be so authorised shall be received in evidence without proof of the authority.

Provision for absence of Secretary.

Subordinate Act (*i.e.*, Act not dealing primarily with the Charity Commission).

Municipal Corporations Act, 1883, 46 & 47 *Vict.*, *c.* 18, *s.* 8 (3).

II. Conferring on Charity Commissioners Powers of Inquiry, and of requiring the Production of Accounts and Evidence; and imposing on Trustees of Charities the duty of Keeping and Rendering Accounts.

CHARITABLE TRUSTS ACT, 1853, ss. 9–15, 61.
" " " 1855, ss. 6–9, 44, 45.
" " " 1860, ss. 19, 20.

CHARITABLE TRUSTS ACT, 1853, ss. 9–15, 61.

Board to inquire into Condition and Management of Charities. [† *Now "Assistant Commissioners."*]

9. It shall be lawful for the said Board from time to time, as they in their discretion may see fit, to examine and inquire into all or any charities in England or Wales, and the nature and objects, administration, management, and results thereof, and the value, condition, management, and application of the estates, funds, property, and income belonging thereto; and the said Board may cause examinations and inquiries in relation to the matters aforesaid to be made and prosecuted by their †inspectors, acting together or separately, in such cases and at such times as the said Board may think fit; and all such †inspectors shall from time to time report their proceedings to the said Board.

Power to require Accounts and Statements. [* *Now "Assistant Commissioners."*]

10. The said Board may require all trustees or persons acting or having any concern in the management or administration of any charity, or the estates, funds, or property thereof, to render to the said Board, or to their *inspectors, or either of them, accounts and statements in writing in relation to such charity, or the funds, estates, property, income, or monies thereof or the administration, management, and application thereof, and may also require such trustees and persons to return answers in writing to any questions or inquiries addressed to them by the direction of the said Board relating to the matters aforesaid.

Officers having Custody of Records to furnish Copies and Extracts, if required by Board. [* *Now "Assistant Commissioner."*]

11. All officers having the custody of enrolments, decrees, reports, records, and other documents relating to or concerning any charity shall furnish such copies or extracts as shall be required by the said Board; and every *inspector, secretary, and other officer of the said Board for the time being employed for the purposes of this Act shall be at liberty, by the authority and under the directions of the Board, and subject to such regulations as the Board may make in that behalf, to examine and search the registers and records of every court of law and equity, and every ecclesiastical court, and every public registry and office of records, and to take copies of and extracts from any decree or document recorded or registered or deposited therein respectively, for any purpose contemplated by this Act, without fee or other payment in respect thereof.

Inspector may examine Witnesses on Oath. [† *Now "Assistant Commissioner."*]

12. Any †inspector acting under the authority of the said Board may, by precept under his hand, subject to such regulations as the said Board may make in that behalf, require any person, being a trustee of any charity or otherwise acting or having any concern in the management or administration of any charity, or of the estates, funds, or property thereof, or in the receipt or payment of the income or monies thereof, or deriving any income or stipend therefrom, to attend before such †inspector for the purpose of being examined by him touching or relating to such charity, or the estates, funds, property, or income thereof, at any time and place mentioned or appointed by such precept, and to bring and produce any deed, paper, writing, instrument, or other document, being in the custody, possession, or power of such person, and relating to such charity, or the estates, funds, property, or income thereof, and may examine upon oath all persons attending in pursuance of such precept, and all persons voluntarily attending before him, and may administer such oath: Provided always, that no person shall be obliged to travel in obedience to any such precept more than ten miles from his place of abode.

Persons giving false Evidence guilty of a Misdemeanor.

13. If any person wilfully give false evidence upon any examination under this Act, every person so offending shall be deemed guilty of a misdemeanor.

Person refusing to render Accounts, &c. to be deemed guilty of a Contempt of Court. [† *Now "Assistant Commissioner."*]

14. If any person from whom the said Board, or any †inspector, is authorised to require any account or statement or answers to any questions or inquiries, or whose attendance any †inspector is authorised to require, shall refuse or wilfully neglect to render to the said Board such account or statement, or to make answers to such questions or inquiries, or to attend in obedience to any lawful precept of any †inspector or to give evidence before him, or shall wilfully alter, destroy, withhold, or refuse to produce any deed, paper, writing, instrument, or other document which may be lawfully required to be produced before any †inspector of the said Board, every person so offending shall be deemed and taken to have been guilty of a contempt of the High Court of Chancery, and shall be liable to be attached and committed by such Court on summary application by the Commissioners to the same, and shall pay the costs of and attending such contempt as the said Court shall direct.

Saving for Persons claiming adversely to Charities. [* *Now "Assistant Commissioners."*]

15. Provided always: That nothing herein contained shall extend to give to the said Board or their *inspectors any power of requiring from any person holding or claiming to hold any property whatsoever adversely to any charity, or free or discharged from any charitable trust or charge, any information, or the production of any deed or document whatever in relation to the property so held or claimed adversely, or any charitable trust or charge alleged to affect the same.

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Accounts of Trustees of Charities to be delivered to the Clerks of County Courts, Clerks of the Peace, and to the Board. [* *Repealed by Charitable Trusts Act, 1855, s. 44.*]

61. The trustees or persons acting in the administration of every charity shall, in books to be kept by them for that purpose, regularly enter or cause to be entered full and true accounts of all money received and paid respectively on account of such charity,* *and on or before the twenty-fifth day of March in every year, or on or before such other day as shall or may be fixed and appointed for that purpose by the said Board, shall cause a statement in writing to be made of the income and revenues, whether actually paid or then due, and the actual receipts and expenditure of such charity for the year ending on the thirty first day of December then next preceding, or on some other convenient day to be fixed and appointed for that purpose by the said Board, and also a balance sheet containing a clear statement of the balance of such account, which statement and balance sheet respectively shall be certified under the hand of some one or more of such trustees or persons (and audited by the auditor of such charity, if any there be); and as to every charity whose gross annual income for the time being shall not exceed thirty pounds, every such statement and balance sheet respectively, or a duplicate or true copy thereof respectively, shall be delivered or sent by such trustees or persons free of charge to the Clerk of the County Court or some one of the County Courts (if more than one) to whose jurisdiction such charity may be subject under this Act (in case such charity be subject to the jurisdiction of any County Court under this Act), or if such charity be not subject to the jurisdiction of any County Court, then to the Clerk of the County Court for the district or any one of the districts (if more than one) wherein or nearest adjoining whereto such charity is established, or the property thereof (in whole or in part) is situate or administered and distributed; and as to every charity whose gross annual income for the time being shall exceed thirty pounds, every such statement and balance sheet, or a duplicate or true copy thereof respectively (unless the said Board shall otherwise direct), shall be delivered or sent free of charge to the Clerk of the Peace for the County or the Division of the County, or some one of the Counties or Divisions of Counties (if more than one) in which the charity is established, or the property thereof is wholly or partially situated or administered and distributed; and every such statement and balance sheet, or a duplicate or true copy thereof respectively, shall be kept and registered without fee or reward by the Registrar of County Courts Judgments or the Clerk of such County Court, and the Clerk of the Peace of such County or Division respectively, and shall be open to the inspection of all persons, at all seasonable hours, on payment of the sum of one shilling*

shilling to the Registrar or Clerk for every such inspection; and any person may require and have a copy of any such statement and balance-sheet, or of any part thereof, paying therefor to such Registrar or Clerk after the rate of two-pence for every seventy-two words of figures; and a duplicate or copy of every such statement or balance sheet to be made according to the foregoing provision, so certified and audited as aforesaid shall be delivered or transmitted, through the post or otherwise, free of charge, by such trustees or other persons, to the said Board on or before the said twenty-fifth day of March in every year, or such other day as may be fixed and appointed by the said Board as aforesaid; and the said Board may from time to time by any order direct that the statement and balance-sheet, or a duplicate or true copy thereof respectively, of the accounts of any charity whose gross annual income exceeds thirty pounds shall be delivered or sent to the Clerk of the County Court in the same manner as if the income of such charity did not exceed thirty pounds; and the said Board may make and give such further and other orders and directions in relation to the delivery and publication of such accounts, and the form thereof, as they may think fit, which directions and orders shall be obligatory on and obeyed by all such trustees and persons as aforesaid.

CHARITABLE TRUSTS ACT, 1855, ss. 6–9, 44, 45.

6. The Board, or any Commissioner or †inspector, such †inspector acting under the authority of the Board, may require written accounts and statements and answers to inquiries relating to any charity, or the property or income thereof, to be rendered or made to them respectively by all or any of the following persons; that is to say,

Trustees or persons acting or concerned in the administration of the charity, its property or income, or in the receipt or payment of any monies thereof:

Agents of any such trustees or persons:

Depositaries of any funds or monies of the charity:

Persons in the beneficial receipt of any funds thereof, or of any income or stipend therefrom:

Persons having the possession or control of any documents concerning the charity or any property thereof:

The Powers of the Commissioners and Inspectors to inquire into Charities extended. [† *Now "Assistant Commissioner."*]

And the Board, or the Commissioner, or *inspector, may require the persons rendering or making any such account, statement, or answer to verify the same by oath or otherwise, and may administer such oath: Provided always, that nothing herein contained shall extend to give to the said Board or their * inspectors any power of requiring from any person holding or claiming to hold any property whatsoever adversely to any charity, or free or discharged from any charitable trust or charge, any information, or the production of any deed or document whatever, in relation to the property so held or claimed adversely, or any charitable trust or charge alleged to affect the same. [* *Now "Assistant Commissioner."*]

7. The Board, or any Commissioner, or *inspector acting as aforesaid, may require all or any such trustees and persons as aforesaid to attend before them respectively at such times and places as may be reasonably appointed, for the purpose of being examined in relation to the charity, and to answer such questions as may be proposed to them, and to produce upon such examination any documents in their custody or power relating to the charity or the property thereof, and may examine upon oath or otherwise all such persons and all persons voluntarily attending, and may administer such oath: Provided always, that no person shall be obliged to travel in obedience to any such requisition more than ten miles from his place of abode.

Power to require Trustees and others to attend and be examined. [**Now "Assistant Commissioner."*]

8. All requisitions made under the foregoing authorities shall be made respectively by the order of the Board, or by precept, under the hand of the Commissioner or *inspector making the same.

Precepts or orders for the preceding purposes, how to be made. [*Now "Assistant Commissioner."*]

9. Any person refusing or wilfully neglecting to comply with any such requisition, or with any order of the Board, made under the provisions of this Act, or the principal Act, or destroying or withholding any document required to be produced or transmitted by him, shall be taken to be guilty of a contempt of the High Court of Chancery, and shall be liable to be attached and committed by such Court, on summary application by the Commissioners to the same Court or to any Judge thereof, and shall pay such costs attending such contempt as the said Court or Judge shall direct: Provided always, that the Court may at any time discharge, on such terms as it may deem just, any person attached or committed on any such application, or on any application made under Section 14 of the principal Act.

Persons not complying with Requisitions, &c. to be deemed guilty of a Contempt of the Court of Chancery.

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44*. *Section sixty-one of "The Charitable Trusts Act, 1853," except so much thereof as enacts that the trustees or persons acting in the administration of every charity shall, in books to be kept by them for that purpose, regularly enter or cause to be entered full and true accounts of all money received and paid respectively on account of such charity shall be repealed as to all accounts which such trustees or administrators shall not have been bound to render before the passing of this Act.* And the trustees or administrators of every charity shall, on or before the twenty-fifth day of March, one thousand eight hundred and fifty six, prepare and make out and transmit to the Board an account of the endowments then belonging to the charity showing in the case of realty not in hand the manner in which the same is let or occupied, and in the case of personalty the existing investment or employment thereof, and in what names, such investments are made; and such trustees or administrators shall also on or before the twenty-fifth day of March next after the acquisition of any endowment not included in the foregoing account prepare and make out, in like manner, and transmit to the Board, a similar account of such last-mentioned endowment, and in case of any alienation, or charge, or transfer of any real or personal estate of the charity, shall on or before the twenty-fifth day of March then next following transmit to the Board an account of such alienation, charge, or transfer, and such trustees or administrators shall also, on or before the twenty-fifth day of March in every year, or such other day as may be fixed for that purpose by the Board, or as may have been already fixed for rendering the accounts thereof required by the principal Act, prepare and make out the following accounts in relation thereto (that is to say),

Amendment of Sec. 61 of 16 & 17 Vict. c. 137, and other Provision made as to the annual Returns of Accounts by Trustees of Charities. [* *Repealed by Statute Law Revision Act*, 1875.]

(1.) An account of the gross income arising from the endowment, or which ought to have arisen therefrom during the year ending on the thirty-first day of December then last, or on such other day as may have been appointed for this purpose by the Board:

(2.) An account of all balances in hand at the commencement of the year, and of all moneys received during the same year on account of the charity:

(3.) An account for the same period of all payments:

(4.) An account of all moneys owing to or from the charity, so far as conveniently may be:

Which accounts shall be certified under the hand of one or more of the said trustees or administrators, and shall be audited by the auditor of the charity, if any; and the said trustees or administrators shall, within fourteen days after the day appointed for making out such accounts, deliver or transmit a copy thereof to the Commissioners at their office in London, and in the case of parochial charities shall deliver another copy thereof to the churchwarden

or churchwardens of the parish or parishes with which the objects of such charities are identified, who shall present the same at the next general meeting of the vestry of such parishes, and insert a copy thereof in the minutes of the vestry book ; and every such copy shall be open to the inspection of all persons at all seasonable hours, subject to such regulations as to the said Board may seem fit ; and any person may require a copy of every such account or of any part thereof, on paying therefor after the rate of twopence for every seventy-two words or figures.

Board may make Orders as to Delivery and Publication of Accounts by Trustees, &c.

45. The Board may from time to time make such orders as they may think fit in relation to the delivery or transmission of the said accounts, and the forms of such accounts, and such orders shall be executed by all trustees and persons from whom the accounts to which they may relate are required.

CHARITABLE TRUSTS ACT, 1860, ss. 19, 20.

Power to require the Transmission of Documents belonging to Charities.

[* *Should be the Fifty-third Section. See p.* 418.]

19. The Board may require any person having the custody or control of any deed or document in which any charity or charities shall be solely interested to transmit the same to the office of the said Commissioners for examination ; and where such deed or document shall not be held by any person entitled as a trustee or otherwise to the custody thereof, the Board may either retain the same, for the security thereof, in the repository provided by them under the *Sixty-third Section of "The Charitable Trusts Act, 1853," or, as they may think most advantageous to the charity, may thereupon, or at any time thereafter, return or issue the same to the trustees or persons acting in the administration of the charity, for the purposes thereof.

Orders to be enforceable as under former Acts.

20. All orders made by the said Board under the provisions of this Act shall be enforceable by the same means, and shall be subject to the same provisions, as are applicable under the Charitable Trusts Act, 1853, and the Charitable Trusts Amendment Act, 1855, respectively, to any orders of the said Board made thereunder.

SUBORDINATE ACT (*i.e.*, Act not dealing primarily with the Charity Commission) :

Local Government Act, 1894, 56 & 56, *Vict.* 73, *c.* 73, *s.* 14 (6).

III. Conferring on Charity Commissioners Powers of Advice, Arbitration, and Authorising Acts of Trustees generally :

CHARITABLE TRUSTS ACT, 1853, ss. 16, 19, 23, 27, 64.
" " 1855, ss. 31-35, 41, 46.
" " 1860, s. 15.
" " 1869, s. 9.

CHARITABLE TRUSTS ACT, 1853, ss. 16, 19, 23, 27, 64.

Board to entertain Applications for their Opinion or Advice.

16. The said Board shall receive and consider all applications which may be made to them by any trustee or other person having any concern in the management or administration of any charity, for their opinion, advice, or direction respecting such charity, or the management or administration thereof, or the estates, funds, property, or income thereof, or the application thereof, or any question or dispute relating to the same respectively, and, if they so think fit, may, upon any such application, give such opinion or advice as they think expedient, subject to any judicial order or direction which may be subsequently made or given by any competent court or judge ; and such opinion or advice shall be in writing, signed by two or more of the said Commissioners, and sealed with the Seal of the said Commission ; and every trustee and other person who shall act upon or in accordance with the opinion or advice given by the said Board, shall in respect of so acting be deemed and taken, so far as respects his own responsibility, to have acted in accordance with his trust ; and no such judicial order or direction subsequently made or given by any court or judge shall have any such retrospective effect as to interfere with or impair the indemnity by this Act given to trustees and other persons who have acted upon or in accordance with such opinion or advice of the said Board : Provided always, that nothing herein contained shall extend to indemnify any trustee or other person for any act done in accordance with the opinion or advice of the said Board, if such trustee or other person have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion or advice.

Persons acting on Advice of Board to be indemnified.

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Board may, upon the Report of an Inspector, authorise Proceedings where no Notice has been given to them, and may in other Cases cause local Inquiries by their Inspectors.

[* *Now Assistant Commissioner.*]

19. Provided also that . . . . the said Board, before giving any such opinion, advice, or direction upon any such application as aforesaid . . . . may, where local inquiry appears to them to be requisite, cause such inquiry to be made by one of their *inspectors ; and the said Board may, in any case where they see fit, before acting upon the report of any *inspector, cause such report to be deposited for local inspection, and give notice of the same being so deposited, and consider any statements or objections which may be transmitted to them in relation thereto.

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Board may sanction Compromise of Claims on behalf of Charity.

[† *Now Assistant Commissioners.*]

23. If in any case it appears to the trustees or persons acting in the administration of any charity that any claim or demand or cause of suit against any person in relation to such charity may, with advantage to the charity, or should, under the special circumstances of the case, be compromised or adjusted without taking or without continuing any proceedings at law or in equity, such trustees or persons may, or the person against whom such claim, demand, or cause of suit exists, or is alleged to exist, may with the consent of the trustees or persons acting in the administration of such charity, submit to the said Board a statement and proposal for such compromise or adjustment ; and if it appear to the said Board after such inquiry in relation thereto by one of their †inspectors, as they may deem requisite, or otherwise, that such proposal, either with or without any modification, is fit and proper and for the benefit of the charity, it shall be lawful for the said Board to make such order for and in relation to such compromise or adjustment as they may think fit ; and upon the due performance of the terms and conditions of such compromise or adjustment as aforesaid, such Agreement‡ shall be a final bar to all actions, suits, claims, and demands by or on behalf of the charity concerned therein, in respect to the cause of action, suit, or matter in respect to which such compromise or adjustment shall have been made.

[‡ Note.—*There appears to be no previous mention of an Agreement.*]

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Trustees of Charities enabled to purchase Sites for building from Owners under Disability, &c., according to the Provisions of Lands Clauses Consolidation Act, 1845.

[*Repealed by Statute Law Revision Act, 1875.]

27. Where any Land shall be required for the erection or construction of any house or building with or without garden, playground or other appurtenances, for the purposes of any charity, *and the trustees of the charity shall be legally authorised to purchase and hold such land*, but by reason of the disability of any person having an estate or interest in such land, or of any defect in title thereto, a valid and perfect assurance of the same land cannot be made to the trustees of the charity in the ordinary manner, it shall be lawful for the trustees of the charity, with the sanction of the said Board (such sanction to be certified under the hand of their secretary), to take and purchase such land according to the provisions of "The Land Clauses Consolidation Act, 1845" ; and for that purpose all the clauses and provisions of the last-mentioned Act with respect to the purchase of lands by agreement, and with respect to the purchase-money or compensation coming to parties having limited interests, or prevented

from

rom treating, or not making a title, and also with respect to conveyances of lands, so far as the same clauses and rovisions respectively are applicable to the cases contemplated by this provision, shall be incorporated in this Act; nd in all cases contemplated by this provision, the expression "the Special Act" used in the said clauses and rovisions of the said "Lands Clauses Consolidation Act" shall be construed to mean this Act; and the expression 'the Promoters of the Undertaking," used in the same clauses and provisions, shall be construed to mean the rustees of the charity in question.

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64. Provided also, That if any question or dispute shall arise among the members of any charity †*exempted rom the operation of this Act* in relation to any office, or the fitness or disqualification of any trustee or officer, or his lection or removal, or generally in relation to the management of the charity, it shall be lawful for two thirds of he members present at any special meeting, duly convened by notice for the purpose in the same manner in which neetings of such charity are by the rules thereof appointed to be held and convened, to refer such question or ispute to the arbitration of the Commissioners, who shall accept such reference and act therein as arbitrators, and heir award shall be final, and may be made a rule of Her Majesty's High Court of Chancery.

Disputes among members of exempted Charities may be referred to Arbitration of Commissioners.

[† *Repealed by Statute Law Revision Act*, 1875.]

Charitable Trusts Act, 1855, ss. 31-35, 41, 46.

31. The Twenty-third Section of the principal Act shall extend to authorise a compromise or adjustment of ny claim, demand, or cause of suit against any charity, or the trustees or administrators thereof, and the order of he Board in relation thereto shall have the like effect as in the case of any compromise or adjustment for which rovision is made by the said section.

Extension of Power of Board as to Compromise of Claims.

32. The Board may authorise the application of any funds belonging to any charity in payments for equality f exchange or partition, or in payment of any expenses incident thereto, or may authorise the trustees to raise ny money for such purposes by mortgage of any land acquired on such exchange or partition, or belonging to the harity.

The Board may authorise payment for equality of exchange or partition.

33. Where there shall be uncertainty as to the specific part of any lands out of which any rent, annuity, or ther periodical payment, not exceeding the yearly sum of ten pounds, charged upon some part of the same lands, or the benefit of a charity, shall be payable, it shall be lawful for the Board, upon the application of the trustees or ersons acting in the administration of the charity, and with the consent of the persons interested, according to the foresaid °definition of "persons interested," in the same lands, to determine by their Order the land charged with uch rent, annuity, or other periodical payment, which shall thenceforth stand charged with such rent, annuity, or eriodical payment accordingly, to the exoneration of the residue of such lands therefrom.

Power to ascertain Lands charged with Rents to Charities.

[* *The Act contains no such definition.*]

34. The expenses incident to the application for and procuring of any such order of exchange or petition, or rder determining the land charged with any rent, annuity, or periodical payment, shall be paid by the trustees r administrators of the charity, or by the other parties to such transactions, or by both, as the Board may irect.

Expenses of Exchanges and Partitions, and determining Application of Charges.

35. Any incorporated charity, or the trustees of any charity, whether incorporated or not, may, with the onsent of the Board, invest money arising from any sale of land belonging to the charity, or received by way of quality of exchange or petition, in the purchase of land, and may hold such land, or any land acquired by way of xchange or petition, for the benefit of such charity, without any licence in mortmain.

Incorporated Charities and Trustees for Charities may re-invest in land.

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41. Section Twenty-seven of "The Charitable Trusts Act, 1853," shall be construed and operate as if the words and the trustees of the charity shall be legally authorised to purchase and hold such land" had been omitted herefrom; and incorporated trustees of any charity shall be competent to purchase and hold lands for the urposes mentioned in the same section without licence in mortmain.

Construction of Sect. 27 of 16 & 17 Vict. c. 137.,

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46. The Sixty-fourth Section of the principal Act shall apply as well to members of any charity within the peration of that Act as to members of any charity exempted from the operation thereof.

Application of Section 64 of 16 & 17 Vict. c. 137.

Charitable Trusts Act, 1860, s. 15.

15. The power vested in the said Board by the °Twenty-first Section of "The Charitable Trusts Act, 1853," of uthorising the application of moneys belonging to any charity or to be raised on the security of the properties hereof to the improvement of such properties shall extend to authorise the application of any like moneys to any ther purpose or object which the Board shall consider to be beneficial to the charity or the estate or objects hereof, and which shall not be inconsistent with the trusts or intentions of the foundation.

Sect. 21 of 16 & 17 Vict. c. 137, extended

[**See page* 411.]

Charitable Trusts Act, 1869, s. 9.

9. The Board, if they think it desirable, where the gross annual income of a charity is in their opinion ufficient to bear the expense, may, upon the application of the trustees or of any other person or persons entitled o apply to them in that behalf, employ or may authorise the trustees or persons acting in the administration of uch charity to employ skilled and competent persons to prepare any scheme, order, statement, or other proceeding or the purposes of the Charitable Trusts Acts, 1853 to 1869, with respect to such charity, or to make or assist in ny survey or local inquiry with reference thereto, and may order the costs incurred under this section or upon any nquiry by an *inspector, or in consequence of the employment of any person to appear on behalf of the respondent pon any appeal against any scheme or order, to be provided in the same manner as if they were costs of a ransaction mentioned in †Section Thirty-six of the Charitable Trusts Act, 1855.

Employment of persons to prepare and defend scheme.

[* *Now "Assistant Commissioner."*]

[†*See page* 412.]

Subordinate Acts (*i.e.* Acts not dealing primarily with the Charity Commission):

Recreation Grounds Act, 1859, 22 Vict. c. 27, s. 6.
Allotments Extension Act, 1882, 45 & 46 Vict. c. 80, ss. 8, 9, 11.
Municipal Corporations Act, 1883, 46 & 47 Vict. c. 18, s. 9 (4).
Public Libraries Act, 1892, 55 & 56 Vict. c. 53, s. 16 (2).
Local Government Act, 1894, 56 & 57 Vict. c. 73, ss. 33 (7), 70 (2), 75 (2).

IV. Amendments of Legal Procedure, and Creation of Summary Jurisdiction over Charities:

CHARITABLE TRUSTS ACT, 1853, ss. 17-19, 28-46, 48, 49, 51.
" " 1855, ss. 12, 26, 27.
" " 1860, s. 11-13.
" " 1869, s. 13.
CHARITABLE TRUSTS (RECOVERY) ACT, 1891, ss. 3–6.

CHARITABLE TRUSTS ACT, 1853, ss. 17-19, 28-46, 48, 49, 51.

Notice of legal proceedings as to any Charity by any person, except the Attorney General, to be given to the Board.

17. Before any suit, petition, or other proceeding (not being an application in any suit or matter actually pending) for obtaining any relief, order, or direction concerning or relating to any charity, or the estate, funds, property, or income thereof, shall be commenced, presented, or taken, by any person whomsoever, there shall be transmitted by such person to the said Board, notice in writing of such proposed suit, petition, or proceeding, and such statement, information, and particulars as may be requisite or proper, or may be required from time to time, by the said Board, for explaining the nature and objects thereof; and the said Board, if upon consideration of the circumstances they so think fit, may, by an order or certificate signed by their secretary, authorise or direct any suit, petition, or other proceeding to be commenced, presented, or taken with respect to such charity, either for the objects and in the manner specified or mentioned in such notice, or for such other objects, and in such manner and form, and subject to such stipulations or provisions for securing the charity against liability to any costs or expenses, and to such other stipulations or provisions for the protection or benefit of the charity, as the said Board may think proper; and such Board, if it seems proper to them, may by such order or certificate as aforesaid require and direct that any proceeding so authorised by them in respect of any charity, shall be delayed during such period as shall seem proper to and shall be directed by such Board; and every such order or certificate may be in such form and may contain such statements and particulars as such Board shall think fit; and (save as herein otherwise provided) no suit, petition, or other proceeding for obtaining any such relief, order, or direction as last aforesaid shall be entertained or proceeded with by the Court of Chancery, or by any Court or Judge, except upon and in conformity with an order or certificate of the said Board: Provided always, that this enactment shall not extend to or affect any such petition or proceeding in which any person shall claim any property or seek any relief adversely to any charity.

Courts not to entertain proceedings as to Charities, except upon Certificate of the Board.

Saving for the Attorney General acting ex-officio.

18. Provided always, that it shall be lawful for Her Majesty's Attorney General acting ex-officio to make such applications, and take and prosecute such proceedings with respect to any charity, in the Court of Chancery or otherwise as to him may seem fit, as if this Act had not been passed; and that nothing in this Act contained shall be construed as dispensing with the fiat or allowance of Her Majesty's Attorney General, with respect to any proceeding not being an application under the jurisdiction created by this Act where such fiat or allowance was necessary before the passing of this Act.

Board may, upon the Report of an Inspector, authorise proceedings where no notice has been given to them, and may in other cases cause local inquiries by their Inspector. [* Now "*Assistant Commissioner.*"]

19. Provided also, that where upon any report of any * inspector under this Act or otherwise it appears to the said Board that any suit, petition, or other proceeding concerning or relating to any charity, or the estate, funds, property or income thereof, would be proper or expedient, it shall be lawful for the said Board by their order to authorise or direct such suit, petition, or proceeding to be commenced, presented, or taken, and to give such directions in relation thereto as the said Board may think proper; and thereupon such suit, petition, or proceeding may be commenced, presented, or taken accordingly, without any such previous notice in writing as hereinbefore mentioned, and the said Board, before giving any such opinion, advice, or direction upon any such application as aforesaid, or making any such order or certificate after notice to them as aforesaid, may, where local inquiry appears to them to be requisite, cause such inquiry to be made by one of their * inspectors; and the said Board may, in any case where they see fit, before acting upon the report of any * inspector, cause such report to be deposited for local inspection, and give notice of the same being so deposited, and consider any statements or objections which may be transmitted to them in relation thereto.

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In Cases of Charities the Incomes of which exceed 30*l.*, Master of the Rolls and Vice Chancellors, upon Applications to them at Chambers, to have the same Jurisdiction as the Court of Chancery or Lord Chancellor now has upon information, &c.

28. Where the appointment or removal of any trustee, or any other relief, order, or direction relating to any charity of which the gross annual income for the time being exceeds thirty pounds shall be considered desirable, and such appointment, removal, or other relief, order, or direction might now be made or given by the Court of Chancery, in respect either of its ordinary or its special or statutory jurisdiction, or by the Lord Chancellor entrusted with the care and commitment of the custody of lunatics, it shall be lawful for any person authorised in this behalf by the order, or certificate of the said Board, or for the Attorney General, to make application (without any Information, Bill or Petition), to the Master of the Rolls or one of the Vice Chancellors sitting at Chambers, for such order, direction, or relief as the nature of the case may require; and the Master of the Rolls or the Vice Chancellor to whom any such application shall be made shall and may proceed upon and dispose of such application in Chambers, save where he may think fit otherwise to direct, and shall and may have and exercise thereupon all such jurisdiction, power, and authority, and make such orders and give such directions in relation to the matter of such application, as might now be exercised, made, or given by the Court of Chancery or by the Lord Chancellor entrusted as aforesaid, in a suit regularly instituted, or upon Petition, as the case may require; and the Master of the Rolls and Vice Chancellors respectively shall, in relation to such applications as aforesaid, and the proceedings thereon (subject to any rules which may be made by the Lord Chancellor, with the advice and consent of them or any two of them) have all such powers of directing matters to be heard in open court, and of ordering what matters shall be heard and investigated by themselves and their chief clerks respectively, and such other powers and authorities as by the Act of the last Session of Parliament, chapter eighty, are vested in or authorised to be exercised by them at Chambers, and the provisions of the said Act applicable to Orders made by the Master of the Rolls or any of the Vice Chancellors at Chambers shall extend to all Orders so made under this Act: Provided always, that, save as may be otherwise provided by any rules to be made by the Lord Chancellor, with such advice and consent as aforesaid, the determinations of the Master of the Rolls and Vice Chancellors respectively, upon and in relation to such applications as aforesaid, shall not be subject to appeal in any case where the gross annual income of the charity does not exceed one hundred pounds: Provided also, that it shall be lawful for the Master of the Rolls or any Vice Chancellor, where under the circumstances of any application as aforesaid he may so see fit, to direct that for obtaining the relief, order, or direction sought for by such application an Information, Bill, or Petition, as the case may require, shall be filed or presented and prosecuted as now by law required, and to abstain from further proceeding on such application.

15 & 16 Vict. c. 80.

Provision as to Charities within the Jurisdiction of the Court of Chancery of the County Palatine of Lancaster.

29. The jurisdiction created and given by this Act to the Master of the Rolls and the Vice Chancellors sitting in Chambers, upon any application to them respectively as aforesaid, shall extend concurrently to and may be exercised by the Chancellor of the Duchy and County Palatine of Lancaster, and the Vice Chancellor of the same County Palatine respectively for the time being, as to every charity within the jurisdiction of the Court of Chancery of the said County Palatine whose gross annual income for the time being exceeds thirty pounds, upon application being made to such Chancellor or Vice Chancellor respectively; and it shall be lawful for the Chancellor of the said Duchy and County Palatine, with the concurrence of the Vice Chancellor of the same County Palatine, from time to time to make and issue any rules and orders for regulating the modes of proceeding, and the fees to be taken in respect of proceedings under this Act.

30. Provided

30. Provided always, that the provisions of this Act applicable to any charity the gross annual income whereof exceeds thirty pounds shall extend to any charity established or administered or applicable to, or for objects or purposes within the City of London the gross annual income whereof does not exceed thirty pounds, in like manner as if such income exceeded that amount.

Provisions as to Charities exceeding 30*l.* per Annum to extend to Charities in London not exceeding 30*l.*

31. It shall be lawful for the Lord Chancellor, with the advice and consent of the Master of the Rolls and Vice Chancellors, or any two of them, to make and issue general rules and orders for regulating the mode and form of applications at the Chambers of the Master of the Rolls and Vice Chancellors respectively under this Act, and the proceedings thereon, and for determining in what cases and under what conditions and restrictions the determinations of the Master of the Rolls and Vice Chancellors respectively upon or in relation to such applications shall be subject to appeal, and the fees and allowances to solicitors of the Court of Chancery, and the fees to be payable in money or by stamps to the officers of the said Court in respect of such applications and proceedings thereon; and such rules and orders may from time to time be varied by the like authority, and all such rules and orders shall be deemed general orders of the said Court.

Lord Chancellor, with the Advice of Master of the Rolls and Vice Chancellors, or Two of them, to make General Orders.

32. Where any charity of which the gross annual income for the time being does not exceed **thirty* pounds shall be established or administered, or be applicable wholly or partially to or for objects or purposes within the district or any two or more of the districts of any †*District Court of Bankruptcy or of any* County Court or Courts †*holden under the Act of the Session holden in the ninth and tenth years of the reign of Her Majesty, chapter ninety-five*, and the appointment or removal of any trustee, or any other relief, order or direction whatsoever concerning such charity, shall be considered desirable, and such appointment or removal, or other relief, order, or direction, might now be made or given by the Court of Chancery in respect either of its ordinary or its special or statutory jurisdiction, or by the Lord Chancellor entrusted with the care and commitment of the custody of lunatics, it shall be lawful for any person authorised in this behalf by the order or certificate of the said Board, or for the Attorney General, to make application to such †*District or* County Court, or, as the case may be, to any one of such †*District or* County Courts, for such order, direction, or relief as the nature of the case may require; and such †*District or* County Court shall entertain such application, and shall hear the matter in open Court, and shall give such relief and make such orders and directions in relation to the matter of such application, as might now be made or given by the Court of Chancery or by the Lord Chancellor, entrusted as aforesaid, in a suit regularly instituted, or upon petition, as the case may require; and the clerk of such County Court shall transmit a copy of such order or direction to the office in London of the Registrar of County Courts Judgments, to be there enrolled: Provided always, that no Judge of any †*District or* County Court shall be authorised to vary any decree, order, or direction of the Court of Chancery, or of any Judge thereof, or to make or give any order or direction inconsistent or conflicting with any such decree, order, or direction: Provided also, that where two or more †*District or* County Courts shall have concurrent jurisdiction with respect to any charity under this Act, no application in respect of such charity shall be made to or entertained by more than one of such †*District or* County Courts at the same time.

District Courts of Bankruptcy and County Courts to have Jurisdiction in Cases of Charities the Incomes of which do not exceed 30*l.*

[* *Now* "*Fifty*," see *Charitable Trusts Act*, 1860, *s.* 11, *page* 408.]

[† *Repealed by Statute Law Revision Act*, 1892.]

33.* *The jurisdiction hereby created and conferred on the County Courts with respect to any charity shall not be exercised by any deputy or other person who may for the time being be appointed to sit and shall be sitting for any such Judge.*

Deputy sitting for County Court Judge not to exercise jurisdiction.

[**Repealed by Statute Law Revision Act*, 1875.]

34. Where two or more **District Courts of Bankruptcy or* County Courts shall concurrently have jurisdiction under this Act with respect to any charity, it shall be lawful for the said Board to order to which of such Courts any application with respect to such charity shall be made; and every such order shall be conclusive as to the jurisdiction with respect to the application referred to in such order.

Where Two or more Courts have concurrent Jurisdiction, Board to direct to which Court Applications shall be made.

[* *Repealed by Statute Law Revision Act*, 1892.]

35. It shall be lawful for the said Board to direct that any application as to any charity within the jurisdiction of any **District Court of Bankruptcy or* County Court shall be made before a Judge of the Court of Chancery, or as to any charity within the jurisdiction of the Court of Chancery of the County Palatine of Lancaster, either before the Chancellor or the Vice-Chancellor of the same County Palatine, or before a Judge of the High Court of Chancery, according to the provisions herein contained applicable to a charity the gross annual income whereof exceeds thirty pounds, and in such case such application shall be made and may be heard and determined accordingly, in like manner as if the gross annual income of such charity exceeded thirty pounds; and upon the production of the order or certificate containing such direction, or of a copy thereof, the application with respect to which such order or certificate shall have been made shall not be entertained or proceeded with by such **District or* County Court.

Board may direct Cases within the Jurisdiction of a District or County Court to be taken before a Judge of the Court of Chancery in the first instance.

[* *Repealed by Statute Law Revision Act*, 1892.]

36. Whenever any order or decision is made by any **District Court of Bankruptcy or* County Court for the appointment or removal of any trustee of any charity, or approving of any scheme for regulating or directing the administration of any charity, or the estate, funds, property, or income thereof, a copy of every such order or decision shall immediately upon the making thereof be delivered or transmitted **by the Deputy Registrar of such District Court or* by the clerk of the County Court **as the case may be*, together with all requisite particulars, to the said Board, for the purpose of being considered by them; and no such order or decision shall be valid or effectual until the same shall have been approved by the said Board, such approval to be testified by a certificate in writing, signed by the secretary of the said Board, and no such approval shall issue from the said Board until one calendar month shall have elapsed after the receipt by the Board of such copy and particulars.

No Order of District or County Court for the Appointment or Removal of Trustees or Approval of a Scheme to be valid unless confirmed by Board.

[* *Repealed by Statute Law Revision Act*, 1892.]

37. In case any such order or decision as last aforesaid of any **District Court of Bankruptcy or* County Court shall not be approved by the said Board, it shall be lawful for such Board to remit the same for reconsideration and decision by such **District or* County Court, with such remarks and recommendations thereon (if any) as shall seem fit and expedient to such Board, or, in the discretion of the Board, to order and direct that the subject matter to which such order or decision relates, together with such order or decision, shall be submitted to the consideration and decision of a Judge of the Court of Chancery, and in such last-mentioned case no further proceedings shall be had or taken in the **District or* County Court with respect to the matter in question; and in case the order or decision of the **District or* County Court, on the reconsideration of any order or decision so remitted for reconsideration, be disapproved as aforesaid by the said Board, such Board shall refer such orders and decisions, and the subject matter thereof, to a Judge of the Court of Chancery, or, as to any charity within the jurisdiction of the

Board, if dissatisfied with the Order of District or County Court, may remit the case for re-consideration, or may transfer the matter to a Judge of the Court of Chancery.

[* *Repealed by Statute Law Revision Act*, 1892.]

Court of Chancery of the County Palatine of Lancaster, either to the Chancellor or the Vice-Chancellor of the same County Palatine, or to a Judge of the High Court of Chancery; and where any order or decision is referred to a Judge of the Court of Chancery, or of the Court of Chancery of the said County Palatine of Lancaster, under this provision, such Judge shall have and exercise all such jurisdiction, power, and authority in relation thereto as in the case of a charity the gross annual income whereof exceeds thirty pounds, and may make such order in relation to the matter of such order or decision as to him may seem proper.

How Orders of District or County Court under this Act to be enforced.

[* *Repealed by Statute Law Revision Act*, 1892.]

38. Subject to any orders to be made by the Lord Chancellor as hereinafter mentioned, and to the other provisions of this Act, all proceedings to be taken in any **District Court of Bankruptcy or* County Court, and all orders and directions to be made or given by any such **District Court or* County Court by virtue of the jurisdiction hereby created and conferred on such Court, shall respectively be subject to the same rules and regulations, and have the same effect, and be registered, enforced, and executed in the same manner as the other proceedings, orders, judgments, and directions of the same Court under its ordinary jurisdiction, and it shall be lawful **for any such District Court or* for any County Court, with the consent of the Board, to rescind or vary any order which shall have been previously made by such Court, without prejudice to any act or matter in the meantime done under such order; and for executing and putting in force any order to be made by any County Court under this Act, every Judge of any such Court shall and may have and exercise all such powers as by the Act of the Session holden in the ninth and tenth years of Her Majesty, chapter ninety-five, are given for enforcing the payment of any debt, damages, or costs under the said Act.

Appeal.

* *Repealed by Statute Law Revision Act*, 1892.]

39. Where any person authorised to make any application under this Act (other than Her Majesty's Attorney General acting ex officio), or any other person who may have been made a party to any proceeding upon any application under this Act, is aggrieved by or dissatisfied with any order made by any **District Court of Bankruptcy or* County Court upon any such application or any proceeding thereon, he may, within one calendar month after the making of such order, give notice in writing to the said Court, and also to the said Board, that he is desirous to appeal against the same; and if the said Board think it reasonable and proper that such appeal should be entertained, and give a certificate to that effect, such **District or* County Court shall suspend any proceedings upon the order appealed against during such time as the circumstances may require; and the said Board, if they so think fit, may require the person giving any such notice of appeal to become bound with two sufficient sureties, to be approved **by the Deputy Registrar of such District Court or* by the Clerk of the County Court, **as the case may be*, to the treasurers of the said Courts respectively, or such other person as the said Board may see fit, in such sum as to the said Board shall seem reasonable, to pay such costs of the proceedings on the appeal as shall be ordered to be paid by such appellant, and also (if the said Board so think fit) to indemnify the charity against the costs and expenses of or attending such appeal; and every bond executed under this provision shall be exempt from stamp duty: Provided always, that it shall be lawful for Her Majesty's Attorney General (acting ex-officio) at any time within three calendar months after the making of any order by a **District Court or* County Court under this Act, to lodge and commence and prosecute an appeal against such order, without giving any such notice or becoming bound as aforesaid, and every such last-mentioned appeal shall thereupon be allowed by the order of such **District or* County Court, and shall have such other effect as any other appeal under this Act.

Proceedings on Appeal.

[* *Repealed by Statute Law Revision Act*, 1892.]

40. Where any order allowing an appeal has been made as aforesaid, the person thereby allowed to appeal shall within three calendar months present a petition to the Court of Chancery, setting forth the order appealed against, and the order allowing such appeal, and praying such relief as the case may require; and upon the hearing of such petition the court may confirm, vary, or reverse the order appealed against, or may remit such order to the **District Court of Bankruptcy or* County Court by which the same was made, with or without any declaration or directions of the Court of Chancery in relation thereto, or may proceed in relation to the charity to which such order relates as in the case of an application under this Act to a Judge of the Court of Chancery at Chambers, and any Judge of such Court sitting at Chambers or in open Court may make or give any such orders or directions in relation to the matter of such order as he may see fit, or the Court may make such other order in relation to the matter of any such appeal as to the Court may seem just, and as might be made in the case of a suit regularly instituted, or a petition, as the case may require; and in case the party allowed to appeal do not within such three calendar months present such petition of appeal, the order against which such appeal was allowed shall be final; and in case any costs adjudged on any such appeal to be paid by the party allowed to appeal be not paid, such bond as aforesaid may be put in suit, and the money to be recovered on every such bond shall be applied to indemnify the charity estate or the person damnified, or otherwise in such manner as the justice of the case may require, and the Court or Judge by whom such appeal may have been heard shall think fit.

Bond to prosecute Appeal may be put in Suit.

No Chancery Judge, or District or County Court in Proceedings under this Act to try Titles, &c.

[* *Repealed by Statute Law Revision Act*, 1892.]

41. Provided always, that no Judge of the Court of Chancery, nor any **District Court of Bankruptcy or* County Court, shall upon any proceedings under this Act, have jurisdiction to try or determine the title at law or in equity to any real or personal property, or any term or interest therein, as between any charity, or the trustee thereof, and any person holding or claiming such real or personal property, term, or interest adversely to such charity, or to try or determine any question as to the existence or extent of any charge or trust.

Notice to be published of Application for Schemes or Appointment or Removal of Trustees under this Act.

[* *Repealed by Statute Law Revision Act*, 1892.]

42. Before any application shall be made to any Judge of the Court of Chancery, or to any **District Court of Bankruptcy or* County Court, under any of the provisions herein contained for the establishment or alteration of a scheme or the appointment or removal of any trustees or trustee, notice in writing of such intended application shall be given in such form and manner as the said Board shall have directed; and if the order be, that such notice be affixed to or near the door of any parish or district Church, the incumbent and churchwardens of such parish or district are hereby respectively required to allow such notice to be affixed and to remain so affixed during such period, not less than fifteen days, as the said Board shall have ordered; and in any case in which the order shall be that such notice shall be affixed to any place, evidence that the same has been so affixed shall be deemed and taken as primâ facie evidence that it has remained affixed during the period prescribed by the Board.

By whom Applications may be made.

Attorney General may Petition under 52 G. 3, c. 101.

43. Every application to any Judge or Court under the jurisdiction created or conferred by any of the provisions of this Act, may be made by Her Majesty's Attorney General, or subject to the provisions aforesaid, by all or any one or more of the trustees or persons administering or claiming to administer, or interested in, the charity which shall be the subject of such application, or any two or more inhabitants of any parish or place within which the charity is administered or applicable; and it shall be lawful for Her Majesty's Attorney General, for the time being, acting ex-officio, to make application by petition to the Court of Chancery, with respect to any charity under the provisions of the Act passed in the fifty-second year of King George the Third, chapter one hundred and one, or under the provisions of any Act or Acts passed or to be passed authorising the application to the same Court by petition according to the provisions of the said Act.

44. For

44. For the purposes of determining the jurisdiction under this Act with respect to any charity, or the right to appeal from the determination of a Judge of the Court of Chancery, it shall be lawful for the said Board to declare, according to such judgment as they may be able to form upon the returns or statements before them in relation to any charity, whether the gross annual income for the time being of such charity does or does not exceed *thirty pounds or one hundred pounds (as the case may require), and a statement in any certificate or order of the said Board, that according to such judgment as aforesaid the gross yearly income of any charity does or does not exceed *thirty pounds or one hundred pounds, shall be sufficient evidence of the amount of the gross annual income of such charity, for the purpose of determining such jurisdiction or right to appeal as aforesaid; and any certificate or order made by the said Board under this Act, authorising any proceeding or application concerning any charity to be taken or made to any †*District Court of Bankruptcy or* County Court or to the Court of Chancery or any Judge thereof, shall state that the gross annual income for the time being of such charity does not exceed *thirty pounds, or does exceed *thirty pounds (as the case may be): Provided always, that where any charity, or the trustees thereof, in addition to the principal endowment for its general objects and purposes, shall be possessed of or entitled to any other endowment for any particular or special object or purpose arising out of or in its nature or application connected with the general objects or purposes of such charity, it shall be lawful for the said Board, having regard to the circumstances of each such case, and to the object and extent of the proposed application and litigation, to determine whether such endowment for such particular or special object or purpose should, for the purposes of jurisdiction and proceedings under this Act, be considered and treated as forming part of the general endowment of the charity, or as a separate or independent charity, and such Board shall frame their certificate or order accordingly.

Statement in certificate of Board of the Amount of Income of any Charity to be sufficient evidence for determining the Jurisdiction or Proceedings under this Act.
[* Now "*Fifty.*" See *Charitable Trusts Act*, 1860, *Sec.* 11, *page* 408.]
[† *Repealed by Statute Law Revision Act*, 1892.]
Proviso as to particular Endowments.

45. The Lord Chancellor shall make such orders for regulating proceedings by and before the Judges of *District Courts of Bankruptcy and* County Courts under this Act, and for fixing and determining the fees to be taken in respect of such proceedings, as he may see fit; and, subject to such orders, such Judges may regulate the proceedings before them respectively, so as to render them as summary and inexpensive as conveniently may be.

Lord Chancellor to make Orders for regulating Proceedings before District and County Courts.
Judges to regulate Proceedings.
[* *Repealed by Statute Law Revision Act*, 1892.]

46. Nothing herein contained shall diminish or detract from any right or privilege which by any rule or practice of the Court of Chancery, or by the construction of law, now subsists for the preference or the exclusive or special benefit of the Church of England, or the members of the same Church, in settling any scheme for the regulation of any charity, or in the appointment or removal of trustees, or generally in the application or management of any charity.

Reservation of Rights and Privileges of Church of England with respect to Charities.

* * * * * * * * *

48. Where any land, or any term or estate therein, holden upon trust for any charity, shall be vested in any persons other than the persons acting in the administration and application of the rents, or where there shall be no trustees thereof, or the trustees, or any of them, shall be unwilling to act, or it shall be uncertain in whom such land, term or estate, shall be vested, or all, or any of the persons in whom such land, term or estate, shall be vested, cannot be found, or shall be under age, lunatic, or of unsound mind (whether found such by inquisition or not), or otherwise incapable of acting, or shall be out of the jurisdiction or not amenable to the process of the Court of Chancery, or where by reason of the reduced number of trustees, or other causes, a valid appointment of new trustees cannot be made, or where by reason of the expenses incident to the appointment of new trustees, and the conveyance or assignment of such land, term or estate, to such new trustees, it shall appear to the Court of Chancery, or to any Judge of such Court or of any Court having jurisdiction with respect to such charity under this Act, desirable so to do, such Court or Judge may order that such land, term or estate, be vested in such †treasurer and thereupon the same shall vest in such †treasurer and his successors for all the estate and interest holden in trust for the charity as aforesaid, without any conveyance or assurance thereof; but no such vesting order as aforesaid, shall be made in respect of any land, or term or estate as aforesaid, holden in trust as aforesaid, vested in a Corporation, without the consent of the Corporation; and no such vesting order shall take effect in respect of any copyhold land without the consent of the Lord of the Manor; and the Court of Chancery, or such Judge, may direct such periodical or other payment, as such Court or Judge may think fit, to be made to the Lord of the Manor, in compensation for fines or other profits which would have become due upon death or admittance of tenants.

Land holden upon trust for a Charity, subject to Jurisdiction of Court of Chancery and of Judge, may be vested in Treasurer.
[† *i.e., The Treasurer of Public Charities, but now called "the Official Trustee of Charity Lands."* See *Charitable Trusts Act*, 1855, s. 15, page 414.]
Proviso.

49. It shall be lawful for any Court or Judge by whom respectively any such vesting order may have been made, or for any other Court or Judge having jurisdiction in the matter, if it shall so seem fit to such Court or Judge, from time to time to order that all or any part of the land, term or estate, which shall for the time being be vested in the said *treasurer by virtue of any such vesting order as aforesaid, shall be devested, and that the same shall be vested in the acting trustees or trustee for the time being of the charity, and such last-mentioned order shall operate to vest such land, term and estate, in the trustees or trustee therein named without any conveyance or assurance.

Orders may be made revesting Land, &c. in the Trustees of the Charity.
[* *Now "the Official Trustee of Charity Lands."* See *preceding section.*]

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51.* *The secretary for the time being of the said Board, and such other public officer or officers as the Lord Chancellor shall appoint, shall be official trustees of charitable funds, and* where trustees or other persons having in their names, or in the name of any deceased person of whom they are representatives, in the books of the Bank of England, or of the East India or South Sea Company, or of any other public company, any annuities, stock or shares, or holding any Government or Parliamentary or other securities in trust for any charity, shall be desirous to transfer or deposit the same to or with the said official trustees in trust for such charity, or where any persons shall be desirous of transferring or depositing as aforesaid any annuities, stocks, shares, or securities, for discharging any legacy or charge given or made to or for the benefit of any charity, or where it shall appear to the Court of Chancery, or to any judge of such Court, or of any †*District Court of Bankruptcy, or* County Court having jurisdiction under this Act, that any annuities, stock, shares, or securities held in trust for any charity ought, for the purpose of security or convenient administration, to be transferred or deposited as aforesaid, it shall be lawful for such Court or Judge to order the transfer or deposit of such annuities, stock, shares, or securities to or with such official trustees.

Judge may order Trustees, &c., holding Stock &c., belonging to a Charity subject to his Jurisdiction to transfer same to Official Trustees.
[* *Repealed by Charitable Trusts Act*, 1887, *s.* 6; *and see s.* 4 *of same Act, page* 416.]
[† *Repealed by Statute Law Revision Act*, 1892.]

Charitable Trusts Act, 1855, ss. 12, 26, 27.

12. Any Court or Judge having jurisdiction to order the transfer of stock in the public funds, or stock or shares of any public company, to the official trustees of charitable funds, shall have power also to authorise such trustees to call for a transfer of and to transfer such stock or shares, and may also order the payment to the same trustees of any principal monies of any charity, under the same circumstances in which the transfer of stock to them may now be ordered.

The Official Trustees of Charitable Funds may be empowered to call for Transfers to them of Stock, &c.

* * * * * * * * *

Copies of Orders affecting the Account of the Official Trustees to be sent to the Board.

26. Copies of all orders made by any Court or Judge for any transfer, deposit, or payment of stock, shares, securities, or monies to or by the official trustees of charitable funds shall be forthwith transmitted to the Board by the parties obtaining such orders.

Indemnity to the Bank and others.

27. Every order made under the principal Act or this Act, requiring or authorising the transfer, payment, or deposit of any stock, shares, securities, or monies to or with the trustees of any charity or the official trustees of charitable funds, or conferring a right to call for or to make such transfer, shall be a complete indemnity to the governor and company of the Bank of England and all companies and persons for any Act done pursuant to such order; and the said governer and company and other companies and persons shall be required to give effect or to conform to every such order, and it shall not be necessary for them to inquire concerning the propriety of such order, or the jurisdiction of the Court or Judge or the Board to make the same.

CHARITABLE TRUSTS ACT, 1860, ss. 11, 12, 13.

Jurisdiction of the District Courts of Bankruptcy and County Courts enlarged. [* *Repealed by Statute Law Revision Act*, 1875.]

11. The jurisdiction vested by the Charitable Trust Act, 1853, in the **District Courts of Bankruptcy and* County Courts, over charities not posessing a larger gross yearly income than thirty pounds, shall be exercisable by the said Courts *respectively* for the like purposes and under the like provisions over charities of which the gross yearly income for the time being, to be calculated in manner aforesaid, shall not exceed fifty pounds, in the same manner as if the last-mentioned limit to the jurisdiction of the said Courts had been fixed by the said former Act.

Official Trustees of Charitable Funds may be empowered to receive Arrears of Dividends.

12. Any Court or Judge, or the said Board, having jurisdiction to authorise the official trustees of charitable funds to call for a transfer of and to transfer any annuities, stock, or securities, may empower them also to receive and recover, in trust for the charity to which the same shall belong, all dividends, interest, and income accrued from any such annuities, stock, or securities respectively, and which shall for the time being be in arrear.

Power for Magistrates to give possession of School Buildings and property held over by Officers or recipients of Charities.

13. Where any schoolmaster or mistress or other officer, or any recipient of the benefit of a charity, being in possession by virtue of his or her office, or as such recipient, of any house, buildings, land, or property of the charity, shall have been removed from or shall cease to hold such his or her office, or his or her place as such recipient, but he or she, or any person claiming under him or her, shall refuse or neglect to relinquish the possession of such house, buildings, land, or property within one calendar month next thereafter, to his or her successor, or to the trustees or persons acting in the administration of the charity, or as they shall direct, it shall be lawful for any two or more justices of the peace acting for the district, division, or place in which such house, buildings, land, or property shall be situate, in petty sessions assembled, and they are hereby required, on the complaint of the said trustees or administrators, and on the production of an order of the said Board certifying such school master or mistress or other officer or recipient to have been duly removed from or to have ceased to hold his or her office or place (which order under the seal of the said Commissioners shall be conclusive evidence of the facts thereby certified, and of the jurisdiction of the said Commissioners to make such order for all the purposes of this enactment, and shall afford a complete indemnity to all persons acting thereunder), to issue a warrant under the hands and seals of such justices to any constables or peace officers of the same district, division, or place, commanding them, within a period to be thereby appointed, not being less than ten or more than twenty-one clear days thereafter, to enter into the premises, and deliver possession thereof to the said trustees or administrators, or their nominee or agent, and to remove therefrom such former schoolmaster or mistress, or other officer or recipient, and all persons claiming in his or her right, as fully and effectually, and subject to the same provisions, as nearly as the case will permit, as justices of the peace are empowered to give possession of any properties to the landlord or his agent upon the determination of the tenancy thereof, under an Act passed in the first and second years of the reign of Her Majesty, chapter seventy-four, for facilitating the recovery of possession of tenements after the determination of the tenancy.

CHARITABLE TRUSTS ACT, 1869, s. 13.

Legal proceedings by Trustees of Charities for protection of Charity Property, &c.

13. The majority of the trustees of any charity, if authorised by the Board, may institute and maintain any action, suit, petition, or other proceeding in the same manner in all respects as if they were the sole trustees of the charity.

Where the trustees, or the majority of the trustees, of any charity, institute and maintain any action, suit, petition or other proceeding under the authority of the Board, such action, suit, petition or other proceeding shall not abate or become discontinued or of no effect by reason of the death or removal from office of any of the trustees, or of the addition of any new trustee, but shall continue and have effect for and against the trustees for the time being of the charity, in the same manner as if they were actually named therein.

CHARITABLE TRUSTS (RECOVERY) ACT, 1891, ss. 3–6.

Power to Board to sue for recovery of property belonging to charities.

3. Where it appears to the Board, that any action, petition, or other proceeding should be instituted for the recovery of any property, the gross annual income of which does not, in the opinion of the Board, exceed twenty pounds a year, and which appears to the Board to belong to a charity, the Board may itself, with the sanction of the Attorney General, institute such proceeding on behalf of the charity; and the expenses of the Board of and incidental to such action, petition, or proceeding shall be paid in like manner as if they were costs of the Attorney General in a charity matter.

Mode of procedure by Board.

4.—(1.) When the Board is authorised to make any application to or appear in any court, or to institute any action, petition, or other proceeding, such application or appearance may be made, and such action, petition, or proceeding may be instituted, in the name of the Charity Commissioners for England and Wales, and not in the names of the persons who are the Commissioners.

(2.) Any action, petition, application, appearance, or other proceeding instituted or made by the Board shall not abate or become defective by reason of any change in the persons who are the Commissioners, but the Commissioners for the time being shall be deemed to be parties thereto.

(3.) For the purposes of any such action, petition, application, appearance, or other proceeding, any document may be served on the Board by being addressed to the Board and delivered at or sent by post to the office of the Board, or by being served on the Secretary to the Board.

(4.) Any application by the Board to the Court in pursuance of this Act may be made in manner for the time being directed by rules of court.

Special remedies given to Board.

5. For the purposes of any action, petition, or proceeding instituted by the Board under this Act the following provisions shall have effect:—

(1.) The

(1.) The printed reports of the Charity Commissioners appointed under an Act passed in the fifty-eighth year of the reign of His Majesty George the Third, and intituled "An Act for appointing Commissioners to inquire concerning charities in England for the education of the poor," and under other Acts for inquiring into charities, shall be admissible as primâ facie evidence of the documents and facts therein stated; provided that either party intending to use any such report as evidence shall give notice of such intention in the prescribed manner to the other party;

Old reports of Charity Commissioners to be evidence. 58 Geo. 3, c. 91.

(2.) Where any yearly or other periodical payment has been made in respect of any land, to or for the benefit of any charity or charitable purpose, for twelve consecutive years, such payment shall be deemed, subject to any evidence which may be given to the contrary, primâ facie evidence of the perpetual liability of such land to such yearly or other periodical payment, and no proof of the origin of such payment shall be necessary.

Payment for twelve years to be presumptive evidence.

(6.) Rules for practice and procedure under this Act, including fees and costs, whether in the Supreme Court of Judicature or in the county court, may from time to time be made by the authority and in the manner by and in which rules may be made for regulating the practice and procedure in such Supreme Court or county court, as the case may be.

Rules.

V. Conferring on Charity Commissioners a Control over the Institution and Progress of Legal Proceedings on behalf of the Charities:

Charitable Trusts Act, 1853, ss. 17–20, 34–39, 42, 44.
" " 1855, s. 40.
" " 1869, s. 13.

Charitable Trusts Act, 1853, ss. 17–20, 34–39, 42, 44.

17. Before any suit, petition, or other proceeding (not being an application in any suit or matter actually pending) for obtaining any relief, order, or direction concerning or relating to any charity, or the estate, funds, property or income thereof, shall be commenced, presented, or taken, by any person whomsoever, there shall be transmitted by such person to the said Board, notice in writing of such proposed suit, petition, or proceeding, and such statement, information, and particulars as may be requisite or proper, or may be required from time to time, by the said Board, for explaining the nature and objects thereof; and the said Board, if upon consideration of the circumstances they so think fit, may, by an order or certificate signed by their secretary, authorise or direct any suit, petition, or other proceeding to be commenced, presented, or taken with respect to such charity, either for the objects and in the manner specified or mentioned in such notice, or for such other objects, and in such manner and form, and subject to such stipulations or provisions for securing the charity against liability to any costs or expenses, and to such other stipulations or provisions for the protection or benefit of the charity, as the said Board may think proper; and such Board, if it seem proper to them, may by such order or certificate as aforesaid require and direct that any proceeding so authorised by them in respect of any charity, shall be delayed during such period as shall seem proper to and shall be directed by such Board; and every such order or certificate may be in such form and may contain such statements and particulars as such Board shall think fit; and (save as herein otherwise provided) no suit, petition, or other proceeding for obtaining any such relief, order, or direction as last aforesaid shall be entertained or proceeded with by the Court of Chancery, or by any Court or Judge, except upon and in conformity with an order or certificate of the said Board: Provided always, that this enactment shall not extend to or affect any such petition or proceeding in which any person shall claim any property or seek any relief adversely to any charity.

Notice of legal proceedings as to any Charity by any Person, except the Attorney General to be given to the Board.

Courts not to entertain proceedings as to Charities, except upon Certificate of the Board.

18. Provided always, that it shall be lawful for Her Majesty's Attorney General acting ex-officio to make such applications, and take and prosecute such proceedings with respect to any charity, in the Court of Chancery or otherwise as to him may seem fit, as if this Act had not been passed; and that nothing in this Act contained shall be construed as dispensing with the fiat or allowance of Her Majesty's Attorney General, with respect to any proceeding not being an application under the jurisdiction created by this Act where such fiat or allowance was necessary before the passing of this Act.

Saving for the Attorney General acting ex-officio.

19. Provided also, that where upon any report of any *inspector under this Act or otherwise it appears to the said Board that any suit, petition, or other proceeding concerning or relating to any charity, or the estate, funds, property or income thereof, would be proper or expedient, it shall be lawful for the said Board by their order to authorise or direct such suit, petition, or proceeding to be commenced, presented, or taken, and to give such directions in relation thereto as the said Board may think proper; and thereupon such suit, petition, or proceeding may be commenced, presented, or taken accordingly, without any such previous notice in writing as hereinbefore mentioned; and the said Board, before * * * making any such order or certificate after notice to them as aforesaid, may, where local inquiry appears to them to be requisite, cause such inquiry to be made by one of their *inspectors; and the said Board may, in any case where they see fit, before acting upon the report of any *inspector, cause such report to be deposited for local inspection, and give notice of the same being so deposited, and consider any statements or objections which may be transmitted to them in relation thereto.

Board may, upon the Report of an Inspector authorise proceedings where no notice has been given to them, and may in other cases cause local inquiries by their Inspector.
[* Now "*Assistant Commissioner.*"]

20. In any case in which it shall appear to the said Board that the institution of legal proceedings is requisite or desirable with respect to any charity, or the estates, funds, property, or affairs thereof, and that under the circumstances thereof it is desirable that such proceedings should be instituted by the Attorney General, it shall be lawful for the said Board, if they so think fit, to certify such case, in writing under the hand of the secretary of the said Board, to Her Majesty's Attorney General, together with such statements and particulars (if any) as in the opinion of the said Board may be requisite or proper for the explanation of such case; and thereupon the said Attorney General, if upon consideration of the circumstances he think fit, shall institute and prosecute such legal proceedings as he shall consider requisite or proper under the circumstances of such case, by information or petition in the Court of Chancery, or by application to a Judge thereof at Chambers, or to †*a District Court of Bankruptcy, or* County Court under the jurisdiction given by this Act.

Power for Board to certify certain cases to the Attorney General.
[† *Repealed by Statute Law Revision Act*, 1875.]

[*And see Sections* 28 *and* 32 *of this Act, pages* 10 *&* 11.]

Where Two or more Courts have concurrent Jurisdiction, Board to direct to which Court application shall be made. [* *Repealed by Statute Law Revision Act*, 1892.]

34. Where two or more **District Courts of Bankruptcy or* County Courts shall concurrently have jurisdiction under this Act with respect to any Charity, it shall be lawful for the said Board to order to which of such Courts any application with respect to such charity shall be made; and every such order shall be conclusive as to the jurisdiction with respect to the application referred to in such order.

Board may direct cases within the Jurisdiction of a District or County Court to be taken before a Judge of the Court of Chancery in the first instance. [* *Repealed by Statute Law Revision Act*, 1892.]

35. It shall be lawful for the said Board to direct that any application as to any charity within the jurisdiction of any **District Court of Bankruptcy or* County Court shall be made before a Judge of the Court of Chancery, or as to any charity within the jurisdiction of the Court of Chancery of the County Palatine of Lancaster, either before the Chancellor or the Vice Chancellor of the same County Palatine, or before a Judge of the High Court of Chancery, according to the provisions herein contained applicable to a charity the gross annual income whereof exceeds thirty pounds, and in such case such application shall be made and may be heard and determined accordingly, in like manner as if the gross annual income of such charity exceeded thirty pounds; and upon the production of the order or certificate containing such direction, or of a copy thereof, the application with respect to which such order or certificate shall have been made shall not be entertained or proceeded with by such **District or* County Court.

No Order of District or County Court for the Appointment or Removal of Trustees or Approval of a Scheme to be valid unless confirmed by Board. [* *Repealed by Statute Law Revision Act*, 1892.]

36. Whenever any order or decision is made by any **District Court of Bankruptcy or* County Court for the appointment or removal of any trustee of any charity, or approving of any scheme for regulating or directing the administration of any charity, or the estate, funds, property, or income thereof, a copy of every such order or decision shall immediately upon the making thereof be delivered or transmitted **by the Deputy Registrar of such District Court or* by the clerk of the County Court, **as the case may be*, together with all requisite particulars to the said Board, for the purpose of being considered by them; and no such order or decision shall be valid or effectual until the same shall have been approved by the said Board, such approval to be testified by a certificate in writing, signed by the secretary of the said Board, and no such approval shall issue from the said Board until one calendar month shall have elapsed after the receipt by the Board of such copy and particulars.

Board, if dissatisfied with the Order of District or County Court may remit the Case for Reconsideration or may transfer the Matter to a Judge of the Court of Chancery. [* *Repealed by Statute Law Revision Act*, 1892.]

37. In case any such order or decision as last aforesaid of any **District Court of Bankruptcy or* County Court shall not be approved by the said Board, it shall be lawful for such Board to remit the same for reconsideration and decision by such **District or* County Court, with such remarks and recommendations thereon (if any) as shall seem fit and expedient to such Board, or, in the discretion of the Board, to order, and direct that the subject matter to which such order or decision relates, together with such order or decision, shall be submitted to the consideration and decision of a Judge of the Court of Chancery, and in such last-mentioned case no further proceedings shall be had or taken in the **District or* County Court with respect to the matter in question; and in case the order or decision of the **District or* County Court on the reconsideration of any order or decision so remitted for reconsideration, be disapproved as aforesaid by the said Board, such Board shall refer such orders and decisions and the subject matter thereof, to a Judge of the Court of Chancery, or, as to any charity within the jurisdiction of the Court of Chancery of the County Palatine of Lancaster, either to the Chancellor or the Vice Chancellor of the same County Palatine, or to a Judge of the High Court of Chancery; and where any order or decision is referred to a Judge of the Court of Chancery, or of the Court of Chancery of the said County Palatine of Lancaster, under this provision, such Judge shall have and exercise all such jurisdiction, power, and authority in relation thereto as in the case of a charity the gross annual income whereof exceeds thirty pounds, and may make such order in relation to the matter of such order or decision as to him may seem proper.

How Orders of District or County Court under this Act to be enforced. [* *Repealed by Statute Law Revision Act*, 1892.]

38. Subject to any orders to be made by the Lord Chancellor as hereinafter mentioned, and to the other provisions of this Act, ... it shall be lawful **for any such District Court*, or for any County Court, with the consent of the Board, to rescind or vary any order which shall have been previously made by such Court, without prejudice to any act or matter in the meantime done under such order. . . . . .

Appeal.

[* *Repealed by Statute Law Revision Act*, 1892.]

39. Where any person authorised to make any application under this Act (other than Her Majesty's Attorney General acting ex-officio), or any other person who may have been made a party to any proceeding upon any application under this Act, is aggrieved by or dissatisfied with any order made by any **District Court of Bankruptcy or* County Court upon any such application, or any proceeding thereon, he may, within one calendar month after the making of such order, give notice in writing to the said Court, and also to the said Board, that he is desirous to appeal against the same; and if the said Board think it reasonable and proper that such appeal should be entertained, and give a certificate to that effect, such **District or* County Court shall suspend any proceedings upon the order appealed against during such time as the circumstances may require; and the said Board, if they so think fit, may require the person giving any such notice of appeal to become bound with two sufficient sureties, to be approved **by the Deputy-Registrar of such District Court, or* by the Clerk of the County Court,* *as the case may be* to the treasurers of the said Courts respectively, or such other person as the said Board may see fit, in such sum as to the said Board shall seem reasonable, to pay such costs of the proceedings on the appeal as shall be ordered to be paid by such appellant, and also (if the said Board so think fit) to indemnify the charity against the costs and expenses of or attending such appeal; and every bond executed under this provision shall be exempt from stamp duty: Provided always that it shall be lawful for Her Majesty's Attorney General (acting ex-officio) at any time within three calendar months after the making of any order by a **District Court or* County Court under this Act to lodge and commence and prosecute an appeal against such order, without giving any such notice or becoming bound as aforesaid, and every such last-mentioned appeal shall thereupon be allowed by the order of such **District or* County Court, and shall have such other effect as any other appeal under this Act.

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Notice to be published of Application for Schemes or Appointment or Removal of Trustees under this Act. [* *Repealed by Statute Law Revision Act*, 1892.]

42. Before any application shall be made to any Judge of the Court of Chancery, or to any **District Court of Bankruptcy or* County Court under any of the provisions herein contained for the establishment or alteration of a scheme or the appointment or removal of any trustees or trustee, notice in writing of such intended application shall be given in such form and manner as the said Board shall have directed; and if the order be that such notice be affixed to or near the door of any parish or district church, the incumbent and churchwardens of such parish or district are hereby respectively required to allow such notice to be affixed and to remain so affixed during such period, not less than fifteen days, as the said Board shall have ordered; and in any case in which the order shall be that such notice shall be affixed to any place, evidence that the same has been so affixed shall be deemed and taken as primâ facie evidence that it has remained affixed during the period prescribed by the Board.

* * * * * * * * * *

44. For

44. For the purposes of determining the jurisdiction under this Act with respect to any charity, or the right to appeal from the determination of a Judge of the Court of Chancery, it shall be lawful for the said Board to declare, according to such judgment as they may be able to form upon the returns or statements before them in relation to any charity, whether the gross annual income for the time being of such charity does or does not exceed *thirty pounds or one hundred pounds (as the case may require), and a statement in any certificate or order of the said Board that according to such judgment as aforesaid the gross yearly income of any charity does or does not exceed *thirty pounds or one hundred pounds shall be sufficient evidence of the amount of the gross annual income of such charity, for the purpose of determining such jurisdiction or right to appeal as aforesaid; and any certificate or order made by the said Board under this Act, authorising any proceeding or application concerning any charity to be taken or made to any† *District Court of Bankruptcy or* County Court or to the Court of Chancery or any Judge thereof, shall state that the gross annual income for the time being of such charity does not exceed *thirty pounds, or does exceed *thirty pounds (as the case may be): Provided always that where any charity, or the trustees thereof, in addition to the principal endowment for its general objects and purposes, shall be possessed of or entitled to any other endowment for any particular or special object or purpose arising out of or in its nature or application connected with the general objects or purposes of such charity, it shall be lawful for the said Board, having regard to the circumstances of each such case, and to the object and extent of the proposed application and litigation, to determine whether such endowment for such particular or special object or purpose should, for the purposes of jurisdiction and proceedings under this Act, be considered and treated as forming part of the general endowment of the charity, or as a separate or independent charity, and such Board shall frame their certificate or order accordingly.

Statement in Certificate of Board of the Amount of Income of any Charity to be sufficient Evidence for determining the Jurisdiction or Proceedings under this Act.

Proviso as to particular Endowments.

[* Now "*Fifty*." See *Charitable Trusts Act*, 1860, *s.* 11, *p.* 408.]

[† *Repealed by Statute Law Revision Act*, 1892.]

CHARITABLE TRUSTS ACT, 1855, s. 40.

40. The Board may order the bill of costs or charges claimed by any attorney or solicitor on account of business conducted or transacted by him on behalf of any charity, or the trustees thereof, to be examined and taxed by the taxing masters of the Court of Chancery, or by the proper taxing officers of any of the Superior Courts at Westminster, who shall proceed to examine and tax the same bill accordingly; and if the same shall be reduced upon such taxation by the amount of one-sixth part or more of the amount thereof, the costs of the taxation shall be paid by such attorney or solicitor, but otherwise out of the funds of the charity by the trustees thereof; and the Board may, after being satisfied as to any bill that it contains exorbitant charges, order any such bill to be so taxed, notwithstanding that the same may have been paid by the trustees of the charity at any period not more than six calendar months previously to such order; and any amount taxed off any such paid bill shall be a debt due from the attorney or solicitor to the trustees of the charity, and shall be forthwith paid by him to such trustees accordingly.

Power to refer Bills of Costs in Charity Matters to Taxation.

CHARITABLE TRUSTS ACT, 1869, s. 13.

13. The majority of the trustees of any charity, if authorised by the Board, may institute and maintain any action, suit, petition, or other proceeding in the same manner in all respects as if they were the sole trustees of the charity. Where the trustees, or the majority of the trustees, of any charity, institute and maintain any action, suit, petition, or other proceeding under the authority of the Board, such action, suit, petition or other proceeding shall not abate or become discontinued or of no effect by reason of the death or removal from office of any of the trustees, or of the addition of any new trustee, but shall continue and have effect for and against the trustees for the time being of the charity, in the same manner as if they were actually named therein.

Legal proceedings by Trustees of Charities for protection of charity property, &c.

VI. Conferring on Charity Commissioners a control over dealings with the real estate of Charities, and facilitating such dealings:

Charitable Trusts Act, 1853, ss. 21, 24–26.
" " 1855, ss. 16, 29, 30, 32, 34–39.
" " 1860, ss. 15, 16.
" " 1869, s. 12.

CHARITABLE TRUSTS ACT, 1853, ss. 21, 24–26.

21. If in any case it appear to the trustees or persons for the time being acting in the administration or management of any charity, or the estates or property thereof, that any part of the charity lands or estates may be beneficially let on building, repairing, improving, or other leases, or on leases for working any mine, or that the digging for or raising of stone, clay, gravel, or other minerals, or the cutting of timber, would be for the benefit of the charity, or that it would be for the benefit of such charity that any new road or street should be formed or laid out, or any drains or sewers made through any part of the charity estates, or that any new building should be erected, or that any existing building should be repaired, altered, rebuilt, or wholly removed, or that any other improvements or alterations in the state or condition of the lands or estates of such charity should be made, it shall be lawful for such trustees or persons to lay before the said Board, a statement and proposal in relation to any of the matters aforesaid, and it shall be lawful for the said Board, if they think that the leases or acts to which the statement and proposal relate (with or without modifications or alterations) would be beneficial to the charity, to make such order under their seal for and in relation to the granting of such leases, or the doing of any other such acts as aforesaid, and any circumstances connected therewith, as they may think fit, although such leases or acts respectively shall not be authorised or permitted by the Trust; and the said Board, by any such order, may authorise the application of any moneys or funds belonging to the charity for any of the purposes or acts aforesaid, and, if necessary, may authorise the trustees to raise any sum of money by mortgage of all or any part of the charity estates;† *provided that compulsory provisions be reserved in every such mortgage for the payment of the principal money borrowed by annual instalments, and for the redemption and reconveyance of the mortgaged estates, within the period of not more than thirty years.*

Board may sanction Building Leases, working Mines, doing Repairs and Improvements.

And may authorise the Application of the Charity Funds or the raising of money on Mortgage for those purposes.

[† *Repealed by Charitable Trusts Act*, 1855, *s.* 30.]

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24. Upon application to the said Board by the trustees or persons acting in the administration of any charity, representing to the said Board that, under the special circumstances of any land belonging to the charity a sale or exchange of such land can be effected on such terms as to increase the income of the charity, or would otherwise be advantageous to the charity, such Board may, if they think fit, inquire into such circumstances, and if, after inquiry, they are satisfied that the proposed sale or exchange will be advantageous to the charity may authorise the sale or exchange, and give such directions in relation thereto, and for securing the due investment of the money arising from any such sale, or by way of equality of exchange for the benefit of the charity, as they may think fit.

Board, under special circumstances, may authorise Sale or Exchange of Charity Lands.

Board may authorise the redemption of Rent charges.

25. The said Board shall have authority, upon such application as aforesaid, to authorise the sale to the owners of the land charged therewith of any rentcharge, annuity, or other periodical payment charged upon land and payable to or for the benefit of any charity, or applicable to charitable purposes, upon such terms and conditions as they may deem beneficial to the charity, and to give such directions for securing the due investment of the money arising from such sale for the benefit of the charity, or for securing the due application thereof to such charitable purposes, as they may think fit; and in like manner the trustees of any charity, with the consent of the Board, may purchase any rentcharge or other yearly payment to which the charity estate is or shall be liable.

Leases, Sales, &c., authorised by the Board to be valid.

26. The leases, sales, exchanges, and other transactions authorised by such Board under the powers of this Act shall have the like effect and validity as if they had been authorised or directed by the express terms of the trust affecting the charity.

CHARITABLE TRUSTS ACT, 1855, ss. 16, 29, 30, 32, 34–39.

Power to acting Trustees to grant Leases.

16. The acting trustees of every charity, or the majority of them, provided that such majority do not consist of less than three persons, shall have at law and in equity power to grant all such leases or tenancies of land belonging thereto, and vested in the official trustee of charity lands, as they would have power to grant in the due administration of the charity if the same land were legally vested in themselves; and all covenants, conditions, and remedies contained in or incident to any lease or tenancy so granted shall be enforceable by and against the trustees or persons acting in the administration of the charity for the time being, and their alienees or assigns, in like manner as if such lands had been legally vested in the trustees granting such lease or tenancy at the time of the execution thereof, and had legally remained in or had devolved to such trustees or administrators for the time being, their alienees or assigns, subject to the same lease or tenancy.

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Restrictions of Charges and Leases of Charity Estates.

29. It shall not be lawful for the trustees or persons acting in the administration of any charity to make or grant, otherwise than with the express authority of Parliament, under any Act already passed or which may hereafter be passed, or of a Court or Judge of competent jurisdiction, or according to a scheme legally established, or with the approval of the Board, any sale, mortgage, or charge of the charity estate, or any lease thereof in reversion after more than three years of any existing term, or for any term of life, or in consideration wholly or in part of any fine, or for any term of years exceeding twenty-one years.

Sinking Fund to be provided for paying off Mortgages in lieu of Provision in Mortgage Deeds.
[* *Repealed by Statute Law Revision Act*, 1875.]

30.* *So much of section twenty-one of the principal Act as requires a compulsory provision to be inserted in every mortgage for the payment of the principal money borrowed by annual instalments, and for the redemption and reconveyance of the mortgaged estates within the period of not more than thirty years, is hereby repealed.* But the Board authorising any mortgage to be made of any charity estate shall make such provisions, by the same or any other order, as to them may seem necessary, for directing the trustees or persons administering the charity to discharge the principal debt or any part thereof by such yearly or other instalments within thirty years from the date of the security as to the said Board may seem fit; or to form an accumulation or sinking fund out of the income of the charity for discharging the principal debt or any portion thereof within the same period, and shall give directions as to the investment and accumulation of such fund, and the trustees for the time being, or persons administering the charity, shall carry such order into effect.

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Board may authorise payment for equality of exchange or partition.

32. The Board may authorise the application of any funds belonging to any charity in payment for equality of exchange or partition, or in payment of any expenses incident thereto, or may authorise the trustees to raise any money for such purposes by mortgage of any land acquired on such exchange or partition, or belonging to the charity.

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Expenses of Exchanges and Partitions, and determining Application of Charges.
[* *The Act makes no provision for an Order of partition.*]

34. The expenses incident to the application for and procuring of any such order of exchange or partition, or order determining the land charged with any rent, annuity, or periodical payment, shall be paid by the trustees or administrators of the charity, or by the other parties to such transactions, or by both, as the Board may direct.

Incorporated Charities and Trustees for Charities may re-invest in Land.

35. Any incorporated charity, or the trustees of any charity, whether incorporated or not, may, with the consent of the Board, invest money arising from any sale of land belonging to the charity, or received by way of equality of exchange or partition, in the purchase of land, and may hold such land, or any land acquired by way of exchange or partition, for the benefit of such charity, without any licence in mortmain.

Order of Board for investments to be carried into effect, and cost to be raised.

36. All orders of the Board for the investment of money coming to any charity or the trustees thereof on any sale, exchange, or partition, shall be carried into effect by the trustees or persons administering the charity; and all moneys which the Board shall order to be provided out of any income or property of a charity for the payment of the costs of any such transaction shall be provided or raised by the trustees or administrators of the charity, and applied accordingly.

Board may direct Official Trustees to convey Lands, &c.

37. It shall be lawful for the Board to authorise or order and direct the official trustee of charity lands and the official trustees of charitable funds respectively to convey lands, and to assign, transfer, and pay over stocks, funds, moneys, and securities, as the Board shall think expedient.

Leases, &c. to be valid notwithstanding disabling Acts.

38. All leases, sales, exchanges, partitions, and transactions authorised by the Board under the principal Act or this Act shall be valid and effectual, notwithstanding the Act of the thirteenth year of the reign of Queen Elizabeth, chapter ten, the Acts of the fourteenth year of the same Queen, chapters eleven and fourteen, the Acts of the eighteenth year of the same Queen, chapters six and eleven, the Act of the thirty-ninth year of the same Queen, chapter five, and the Act of the twenty-first year of the reign of King James the First, chapter one, or any disabling Act applicable to the charity the estates whereof shall be the subject of any such transaction.

Board may approve Schemes for letting charitable property.

39. It shall be lawful for the Board to prepare, and under their seal to approve of, any scheme for the letting of the property or any part of the property of any charity; and all leases granted by any trustees or persons acting in the management of any charity, pursuant to or in conformity with such scheme, shall be valid.

CHARITABLE TRUSTS ACT, 1860, ss. 15, 16.

Sect. 21. of 16 & 17 Vict. c. 137, extended.

15. The power vested in the said Board by the twenty-first section of "The Charitable Trusts Act, 1853," of authorising the application of moneys belonging to any charity or to be raised on the security of the properties thereof, to the improvement of such properties, shall extend to authorise the application of any like moneys to any other purpose or object which the Board shall consider to be beneficial to the charity or the estate or objects thereof, and which shall not be inconsistent with the trusts or intentions of the foundation.

16.* *A*

16.* *A majority of two-thirds of the trustees of any charity assembled at a meeting of their body duly constituted, and having power to determine on any sale, exchange, partition, mortgage, lease, or other disposition of any property of the charity, shall also have a legal power, on behalf of themselves and their co-trustees and also of the official trustee of charity lands, where his concurrence would be otherwise required, to do, enter into, and execute all such acts, deeds, contracts, and assurances as shall be requisite for carrying any such sale, exchange, partition, mortgage, lease, or disposition into legal effect, and all such acts, deeds, contracts, or assurances shall have the same legal effect as if the same were respectively done, entered into, or executed by all the acting trustees for the time being, and by the said official trustee.*

A majority of Trustees to have legal power of dealing with the Charity Estates.

[*Repealed by Charitable Trusts Act, 1869, s. 17.]

CHARITABLE TRUSTS ACT, 1869, s. 12.

12. Where the trustees or persons acting in the administration of any charity have power to determine on any sale, exchange, partition, mortgage, lease, or other disposition of any property of the charity, a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question shall have and be deemed to have always had full power to execute and do all such assurances, acts, and things as may be requisite for carrying any such sale, exchange, partition, mortgage, lease, or disposition into effect, and all such assurances, acts, and things shall have the same effect as if they were respectively executed and done by all such trustees or persons for the time being and by the official trustee of charity lands.

Legal power of majority of Trustees to deal with Charity Estates.

Subordinate Acts (*i.e.* Acts not dealing primarily with the Charity Commission):

Literary and Scientific Institutions Act, 1854, 17 & 18 Vict. c. 112, s. 6.
Commons Act, 1876, 39 & 40 Vict. c. 56, s. 19.
Places of Worship Sites Amendment Act, 1882, 45 & 46 Vict. c. 21, s. 1 (*d*).
Allotments Extension Act, 1882, 45 & 46 Vict. c. 80, s. 10.
Municipal Corporations Act, 1883, 46 & 47 Vict. c. 18, s. 8 (2).
Agricultural Holdings (England) Act, 1883, 46 & 47 Vict. c. 61, s. 40.
Allotments Act, 1887, 50 & 51 Vict. c. 48, s. 13 (2).
Mortmain and Charitable Uses Act, 1888, 51 & 52 Vict. c. 42, s. 6 (2).
Open Spaces Act, 1890, 53 & 54 Vict. c. 15, ss. 3, 4.
Working Classes Dwellings Act, 1890, 53 & 54 Vict. c. 16, s. 1 (ii).
Mortmain and Charitable Uses Act, 1891, 54 & 55 Vict. c. 73, ss. 5, 6, 8.
Technical and Industrial Institutions Act, 1892, 55 & 56 Vict. c. 29 (1), 10 (1).
Public Libraries Act, 1892, 55 & 56 Vict. c. 53, s. 13 (1) 2 (*c*).

VII. Provisions as to the preservation of Charity property by means of—

(*a.*) The official trustee of charity lands:

Charitable Trusts Act, 1853, ss. 47–50.
" " 1855, ss. 15, 16, 37.
" " 1860, s. 16.
" " 1869, s. 12.
" " 1887, s. 5.

(*b.*) The official trustees of charitable funds:

Charitable Trusts Act, 1853, ss. 51, 52.
" " 1855, ss. 12, 17-28, 37.
" " 1860, ss. 12, 17, 18, 23.
" " 1887, s. 4.

(*c.*) The vesting, or transfer, of property, otherwise than by order of a Court, or Judge:

Charitable Trusts Act, 1853, s. 65.
" " 1860, ss. 2–5, 8–10, 23.
" " 1869, ss. 4–6, 8, 10, 11.

(*d.*) The deposit and safe custody of title deeds and documents:

Charitable Trusts Act, 1853, s. 53.
" " 1855, s. 42.
" " 1860, s. 19.

(*e.*) The exemption from income tax, and the taxation of Bills of Costs:

Charitable Trusts Act, 1855, ss. 28, 40.

(*a.*) THE OFFICIAL TRUSTEE OF CHARITY LANDS.

CHARITABLE TRUSTS ACT, 1853, ss. 47–50.

47. The secretary for the time being of the said Board shall by virtue of his appointment be the treasurer of public charities; and such treasurer shall for the purposes of taking, holding, conveying, assigning, transferring, and transmitting real property, including leaseholds for lives or years, be a corporation sole by the name of "*The treasurer of public charities*," and by that name shall have perpetual succession, and plead and be impleaded before all courts, justices, and others.

Secretary to be Treasurer of Charities; such Treasurer to be a Corporation.

Land holden upon trust for a Charity, subject to jurisdiction of Court of Chancery and of Judge, may be vested in Treasurer.

48. Where any land, or any term or estate therein, holden upon trust for any charity, shall be vested in any persons other than the persons acting in the administration and application of the rents; or where there shall be no trustees thereof, or the trustees, or any of them, shall be unwilling to act, or it shall be uncertain in whom such land, term or estate, shall be vested, or all, or any of the persons in whom such land, term or estate, shall be vested, cannot be found, or shall be under age, lunatic, or of unsound mind (whether found such by inquisition or not), or otherwise incapable of acting, or shall be out of the jurisdiction or not amenable to the process of the Court of Chancery, or where by reason of the reduced number of trustees or other causes a valid appointment of new trustees cannot be made, or where by reason of the expenses incident to the appointment of new trustees, and the conveyance or assignment of such land, term or estate, to such new trustees, it shall appear to the Court of Chancery, or to any judge of such Court or of any Court having jurisdiction with respect to such charity under this Act, desirable so to do, such Court or Judge may order that such land, term or estate be vested in such treasurer, and thereupon the same shall vest in such treasurer and his successors for all the estate and interest holden in trust for the charity as aforesaid, without any conveyance or assurance thereof; but no such vesting order as aforesaid, shall be made in respect of any land, or term or estate as aforesaid, holden in trust as aforesaid, vested in a corporation, without the consent of the corporation; and no such vesting order shall take effect in respect of any copyhold land without the consent of the Lord of the Manor; and the Court of Chancery, or such Judge, may direct such periodical or other payment, as such Court or Judge may think fit, to be made to the Lord of the Manor, in compensation for fines or other profits which would have become due upon death or admittance of tenants.

Proviso.

Orders may be made revesting Land, &c. in the Trustees of the Charity.

49. It shall be lawful for any Court or Judge by whom respectively any such vesting order may have been made, or for any other Court or Judge having jurisdiction in the matter, if it shall so seem fit to such Court or Judge, from time to time to order that all or any part of the land, term or estate, which shall for the time being be vested in the said treasurer by virtue of any such vesting order as aforesaid, shall be devested, and that the same shall be vested in the acting trustees or trustee for the time being of the charity; and such last-mentioned order shall operate to vest such land, term and estate, in the trustees or trustee therein named without any conveyance or assurance.

Treasurer to be a bare Trustee.

50. Subject to the orders and directions of the Court of Chancery or of any such judge, such treasurer shall be deemed a bare trustee, and shall permit the persons acting in the administration of the charity to have the possession, management, and control of the trust estates, and the application of the income thereof, as if the same had been vested in them.

CHARITABLE TRUSTS ACT, 1855, ss. 15, 16, 37.

The Official Trustee of Charity Lands constituted.

15. The secretary for the time being of the Board shall be a corporation sole by the name of "the official trustee of charity lands," for taking and holding charity lands, and by that name (instead of the name of "treasurer of public charities") shall have perpetual succession; and all land, or estates or interests in land, now vested in the "treasurer of public charities" by that name shall become, upon the passing of this Act, and by virtue thereof, vested in like manner and upon the same trusts in "the official trustee of charity lands," and all provisions of the principal Act which have reference to the treasurer of public charities shall operate as if the name of the "official trustee of charity lands" had been used therein instead of the name of "treasurer of public charities."

Power to acting Trustees to grant Leases.

16. The acting trustees of every charity, or the majority of them, provided that such majority do not consist of less than three persons, shall have at law and in equity power to grant all such leases or tenancies of land belonging thereto, and vested in the official trustee of charity lands, as they would have power to grant in the due administration of the charity if the same land were legally vested in themselves; and all covenants, conditions, and remedies contained in or incident to any lease or tenancy so granted, shall be enforceable by and against the trustees or persons acting in the administration of the charity for the time being, and their alienees or assigns in like manner as if such lands had been legally vested in the trustees granting such lease or tenancy at the time of the execution thereof, and had legally remained in or had devolved to such trustees or administrators for the time being, their alienees or assigns, subject to the same lease or tenancy.

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Board may direct Official Trustees to convey Lands, &c.

37. It shall be lawful for the Board to authorise or order and direct the official trustee of charity lands and the official trustees of charitable funds respectively to convey lands, and to assign, transfer, and pay over stocks, funds, moneys, and securities, as the Board shall think expedient.

CHARITABLE TRUSTS ACT, 1860, s. 16.

A majority of Trustees to have legal power of dealing with the Charity Estates. [* *Repealed by Charitable Trusts Act*, 1869, *s.* 17.]

16.* *A majority of two-thirds of the trustees of any charity assembled at a meeting of their body duly constituted and having power to determine on any sale, exchange, partition, mortgage, lease, or other disposition of any property of the charity, shall also have a legal power, on behalf of themselves and their co-trustees, and also of the official trustee of charity lands, where his concurrence would be otherwise required, to do, enter into, and execute all such acts, deeds, contracts, and assurances as shall be requisite for carrying any such sale, exchange, partition, mortgage, lease, or disposition into legal effect, and all such acts, deeds, contracts, or assurances shall have the same legal effect as if the same were respectively done, entered into, or executed by all the acting trustees for the time being, and by the said official trustee.*

CHARITABLE TRUSTS ACT, 1869, s. 12.

Legal power of majority of Trustees to deal with Charity Estates.

12. Where the trustees or persons acting in the administration of any charity have power to determine on any sale, exchange, partition, mortgage, lease, or other disposition of any property of the charity, a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question shall have and be deemed to have always had full power to execute and do all such assurances, acts, and things as may be requisite for carrying any such sale, exchange, partition, mortgage, lease, or disposition into effect, and all such assurances, acts, and things shall have the same effect as if they were respectively executed and done by all such trustees or persons for the time being and by the official trustee of charity lands.

CHARITABLE TRUSTS ACT, 1887, s. 5.

Declaration as to power of Official Trustee of Charity Lands to take and hold land.

5. The official trustee of charity lands shall be authorised and be deemed always to have been authorised to take and hold all such land and estate or interest in land as, in pursuance of an order of the Board, is conveyed to or vested in him by any deed or assurance or otherwise.

51° *The*

(b.) THE OFFICIAL TRUSTEES OF CHARITABLE FUNDS.

Charitable Trusts Act, 1853, ss. 51, 52.

51.° *The Secretary for the time being of the said Board, and such other public officer or officers as the Lord Chancellor shall appoint, shall be official trustees of charitable funds, and* where trustees or other persons having in their names, or in the name of any deceased person of whom they are representatives, in the books of the Bank of England, or of the East India or South Sea Company, or of any other public company, any annuities, stock or shares, or holding any Government or Parliamentary or other securities in trust for any charity, shall be desirous to transfer or deposit the same, to or with the said official trustees in trust for such charity, or where any persons shall be desirous of transferring or depositing as aforesaid any annuities, stocks, shares, or securities, for discharging any legacy or charge, given or made to or for the benefit of any charity, or where it shall appear to the Court of Chancery, or to any judge of such Court, or of any ‡*District Court of Bankruptcy or* County Court having jurisdiction under this Act, that any annuities, stock, shares, or securities, held in trust for any charity ought, for the purpose of security or convenient administration, to be transferred or deposited as aforesaid, it shall be lawful for such Court or Judge to order the transfer or deposit of such annuities, stocks, shares, or securities, to or with such official trustees.

Judge may order Trustees, &c., holding stock, &c., belonging to a charity subject to his Jurisdiction to transfer same to Official Trustees.
[° *Repealed by Charitable Trusts Act*, 1887, *s.* 6.]
[‡ *Repealed by Statute Law Revision Act*, 1892.]

52.° *The secretary of the said Board shall keep separate accounts of the annuities, stock, shares, and securities, belonging to each separate charity, and* the said official trustees shall pay the dividends or interest or income thereof to the trustees or persons acting in the administration of such charity, or otherwise dispose thereof, and transfer such annuities, stock, shares, or securities (when occasion shall require) as the Court of Chancery, or any Judge of such Court, or of any †*District Court of Bankruptcy, or* County Court having jurisdiction under this Act, or other lawful authority, shall direct.

Secretary to keep separate accounts of funds of each Charity.
[° *Repealed by Charitable Trusts Act*, 1887, *s.* 6.]
[† *Repealed by Statute Law Revision Act*, 1892.]

Charitable Trusts Act, 1855, ss. 12, 17–28, 37.

12. Any Court or Judge having jurisdiction to order the transfer of stock in the public funds, or stock or shares of any public company, to the official trustees of charitable funds, shall have power also to authorise such trustees to call for a transfer of and to transfer such stock or shares, and may also order the payment to the same trustees of any principal moneys of any charity, under the same circumstances in which the transfer of stock to them may now be ordered.

The Official Trustees of Charitable Funds may be empowered to call for transfers to them of stock, &c.

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17.° *The Lord Chancellor may from time to time by writing under his hand appoint any persons to be, jointly with the secretary for the time being of the said Board, the official trustees of charitable funds, and remove any such trustees, and every such appointment or removal shall be published in the "London Gazette."*

Appointments of Official Trustees of Charitable Funds regulated.
[° *Repealed by Charitable Trusts Act*, 1887, *s.* 6.]

18. The °*present* official trustees of charitable funds, and their successors, °*to be so appointed*, shall have perpetual succession by the name of "The Official Trustees of Charitable Funds," and may hold by that name stock in the public funds, and stock and shares of any public company, securities, and moneys, which shall respectively devolve to their successors, the official trustees of charitable funds for the time being, without transfer or assignment.

Such Trustees to have perpetual succession, and may hold funds in that name.
[° *Repealed by Charitable Trusts Act*, 1887, *s.* 6.]

19.° *All stock in the public funds vested in the joint names of Henry Morgan Vane, Thomas Hare, and Walker Skirrow, Esquires, the present official trustees of charitable funds, shall upon the passing of this Act be transferred by the Governor and Company of the Bank of England, from their names to the account of the official trustees of charitable funds.*

Funds to vest in the Official Trustees for the time being.
[*Repealed by Statute Law Revision Act*, 1875.]

20. The official trustees of charitable funds shall, for the purposes of their trust, keep a banking account in their official name in the books of °*the Governor and Company of* the Bank of *England*, †*and the secretary of the Board shall keep separate accounts of the moneys held upon such account, and belonging to each separate charity.*

The Official Trustees to keep banking account.
[° *Repealed by Statute Law Revision Act*, 1892.]
[† Repealed by Charitable Trusts Act, 1887, sec. 6.]

21. All orders for payment of any money held upon such banking account shall be signed by one at least of the official trustees of charitable funds, not being the secretary of the Board, and also by the secretary, and shall be countersigned by one of the Commissioners, or shall be otherwise signed or authenticated in such manner as the Lord Chancellor shall from time to time by order under his hand direct; and such orders shall be a sufficient authority to the bank paying the same for all such payments.

Mode of drawing on the banking account.

22. Any trustee or other person may, on obtaining an order of the Board for the purpose, transfer any stock or pay any money to the official trustees of charitable funds in trust for any charity.

Trustees may transfer stock to Official Trustees.

23. All principal moneys belonging to any charity directed to be paid to the official trustees of charitable funds shall be paid to their account at the bank, and, subject to any order of the Court or Judge or of the Board by which respectively the payment shall have been authorised, shall be forthwith invested in the public funds in the names of the official trustees of charitable funds, for the benefit of the charity to which they shall belong.

As to disposal of of principal moneys paid to them.

24. The dividends arising from all stock in the public funds standing in the name of the official trustees of charitable funds shall from time to time be received by °*the Governor and Company of* the Bank of England, under the authority of this Act, for the credit of the said official trustees, and shall be placed to their banking account accordingly; and all dividends and interest arising from any other stock, shares, or securities standing in the name of or held by the official trustees of charitable funds shall be paid only to °*the Governor and Company of* the Bank of England for the account of the same trustees; †*and the said trustees shall from time to time execute to the said Governor and Company all such powers as shall be found necessary for enabling them to receive and give effectual discharges for the last-mentioned dividends and interest.*

All dividends and interest due to the Official Trustees of Charitable Funds to be placed to their banking account.
[*Repealed by Statute Law Revision Act*, 1892.]
[† *Repealed by Charitable Trusts Act*, 1887, *s.* 6.]

For the regulation of transfers and payments to or by the Official Trustees. [**Repealed by Statute Law Revision Act*, 1875.] [† *Repealed by Statute Law Revision Act*, 1892.]

25. No transfer of any stock, shares or securities shall be made to the official trustees of charitable funds, nor shall any money, other than the dividends or interest of any such stock, shares, or securities as aforesaid, be paid to their account, except in pursuance of an order of the Court of Chancery, or of some Judge thereof, or of a **District Court of Bankruptcy, or* County Court, or of the Board; and no transfer of any such stock, shares, or securities shall be made by the official trustees, except under the order of such Court or Judge, or under the order of the Board signed by two Commissioners, or authenticated in such manner as the Lord Chancellor from time to time by any order under his hand direct; and no transfer to or by the official trustees shall be permitted by †*the Governor and Company of* the Bank of England or any other company contrary to this provision.

Copies of Orders affecting the account of the Official Trustees to be sent to the Board.

26. Copies of all orders made by any Court or Judge for any transfer, deposit, or payment of stock, shares, securities, or moneys to or by the official trustees of charitable funds shall be forthwith transmitted to the Board by the parties obtaining such orders.

Indemnity to the Bank and others.

27. Every order made under the principal Act or this Act, requiring or authorising the transfer, payment, or deposit of any stock, shares, securities, or monies to or with the trustees of any charity or the official trustees of charitable funds, or conferring a right to call for or to make such transfer, shall be a complete indemnity to the Governor and Company of the Bank of England and all companies and persons for any act done pursuant to such order; and the said Governor and Company and other companies and persons shall be required to give effect to or conform to every such order, and it shall not be necessary for them to inquire concerning the propriety of such order, or the jurisdiction of the Court or Judge or the Board to make the same.

Dividends on stock in name of official fund trustees to be carried to account free from income tax. [**Repealed by Statute Law Revision Act*, 1892.]

28. All dividends arising from any stock in the public funds standing in the name of the official trustees of charitable funds, and which shall be certified by the Board to **the Governor and Company of* the Bank of England to be exempt from the Property or Income Tax, shall be paid or carried to the banking account of the official trustees without any deduction of such tax; and all dividends arising from any stock in the public funds standing in any other names or name, and which the Board shall certify to **the Governor and Company of* the Bank of England to be subject only to charitable trusts, and to be exempt from such tax, shall be paid without any deduction thereof.

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Board may direct official trustees to convey lands, &c.

37. It shall be lawful for the Board to authorise or order and direct the official trustees of charity lands, and the official trustees of charitable funds respectively to convey lands, and to assign, transfer, and pay over stocks, funds, monies, and securities, as the Board shall think expedient.

CHARITABLE TRUSTS ACT, 1860, ss., 12, 17, 18, 23.

Official trustees of charitable funds may be empowered to receive arrears of dividends.

12. Any Court or Judge, or the said Board, having jurisdiction to authorise the official trustees of charitable funds to call for a transfer of, and to transfer any annuities, stock, or securites, may empower them also to receive and recover, in trust for the charity to which the same shall belong, all dividends, interest, and income accrued from any such annuities, stock, or securities respectively, and which shall for the time being be in arrear.

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Official trustee not to be accountable for loss unless occasioned by his own neglect. [* *Repealed by Charitable Trusts Act*, 1887, *s.* 6.]

17. No official trustee of charitable funds **appointed under or in pursuance of the first or secondly recited Act*, shall be chargeable with, or accountable for any loss or misapplication of the said charitable funds, or the dividends, interest, or income thereof, unless the same shall have been occasioned by or through his own wilful neglect or default.

Accounts to be laid before Parliament.

18. The official trustees of charitable funds shall lay before Parliament annually, on or before the fourteenth day of February, or as soon as practicable after Parliament shall be sitting, an account of the total amount of the capital stock, shares, and securities transferred to them in the year ending the thirty-first day of December preceding, and of the total amount of moneys, other than dividends or interest, paid to them or to their account during the same period, and of the investment thereof, and of the capital stock, shares, and securities sold or re-transferred by them during the same period, and of the aggregate amount of the capital stock, shares, funds, and securities, and the balance of cash, held by them on such preceding thirty-first day of December.

* * * * * * * * *

Indemnity to the Bank of England and others.

23. Every order made under this Act under which any stock, shares, securities, or monies shall be transferred or paid to or deposited with the trustees of any charity, or the official trustees of charitable funds, shall afford a complete indemnity to the Governor and Company of the Bank of England, and to all companies and persons by whom respectively any such transfer, payment, or deposit shall be permitted or made, for permitting or making the same, and the said Governor and Company and other companies and persons shall be required to give effect or to conform to such order, and it shall not be necessary for them to inquire concerning the propriety of the same order, or the jurisdiction under which the same shall purport to be made.

CHARITABLE TRUSTS ACT, 1887, s. 4.

Amendment of Charitable Trusts Acts as to official trustees of charitable funds.

4.—(1.) From and after the date fixed by a regulation under this section, such officers of the Board as the Board, with the approval of the Treasury from time to time appoint, shall, in lieu of the persons mentioned in the Charitable Trusts Amendment Act, 1855, be the official trustees of charitable funds;

Provided that any inspector or officer of the Board, who at the passing of this Act is official trustee of charitable funds, and is not, after the passing of this Act, appointed to be official trustee shall, while he continues to hold his inspectorship or office, receive not less salary than he received while official trustee.

(2.) From and after the said date, notwithstanding anything in the Charitable Trusts Acts, 1853 to 1869, the Treasury may, by regulations to be made or approved by them, from time to time prescribe:

(*a*) the accounts to be kept by the said official trustees, and the mode in which, and the persons by whom such accounts and the banking accounts, and any other accounts required by the Charitable Trusts Acts, 1853 to 1869, to be kept by or on behalf of the official trustees of charitable funds, are to be kept;

(*b*) the mode in which orders authorised by law for the payment of any money to or by the said official trustees or held upon their banking account, or for the transfer of any stock or securities to or by the said official trustees, are to be signed, authenticated, and carried into effect; and

(*c*) the mode in which the business of the said official trustees generally is to be conducted:

Provided that separate accounts shall continue to be kept for each charity.

(3.) The

(3.) The accounts of the said official trustees shall be audited by such person and in accordance with such regulations as the Treasury from time to time appoint or prescribe.

(4.) A regulation under this section, or an order made under any such regulation, shall be a complete indemnity to the Governor and Company of the Bank of England, and all companies and persons, for any act done pursuant to such regulation or order, and the said Governor and Company, and other companies and persons shall conform to such regulation or order.

(c.)—THE VESTING, OR TRANSFER, OF PROPERTY, OTHERWISE THAN BY ORDER OF A COURT OR JUDGE.

Charitable Trusts Act, 1853, s. 65.

Legal Estate of Lands now vested in Municipal Corporations on Charitable Trusts to be vested in Trustees. 5 & 6 W. 4. c. 76. [* *Repealed by the Municipal Corporations Act*, 1882, *s.* 5].

65.* *The legal estate in all lands which at the time of the passing of the Act of the Session holden in the fifth and sixth years of King* William *the Fourth, Chapter Seventy-six, was vested in the body corporate of any borough which became subject to the provisions of the said Act, or in any one or more of the members of such body corporate, in his or their corporate capacity, solely or together with any person or persons elected solely by such body corporate, or solely by any particular number, class, or description of members of such body corporate, in whole or in part in trust or for the benefit of any charitable uses or trusts whatsoever, and which legal estate shall not have been since duly conveyed or assured to and vested in the trustees appointed by the Lord High Chancellor under the provisions of the said Act, or such of them as shall be surviving and continuing trustees, or otherwise lawfully conveyed, aliened, or disposed of by such body corporate or member or members thereof, shall from and immediately after the passing of this Act, and without any actual conveyance, assignment, or other assurance thereof, be vested in the trustees so appointed, or such of them as shall be surviving and continuing trustees under such appointment as aforesaid, according to the respective estates and interests therein, and subject to such and the same charges and incumbrances and upon such and the same trusts as the same were respectively subject to previously to such vesting; and in every case, upon the death, resignation, or removal of any of the trustees, and upon any appointment of any new trustee or trustees respectively, the legal estate in the same lands, and in all other lands subject to any such charitable uses or trusts which may for the time being be vested in the trustees or any of them, or in any persons or the heirs or devisees of any person who may have died, resigned, or been removed, shall vest in the persons who after such death, resignation, or removal, and such appointment of such new trustee or trustees respectively, shall continue or be the trustees for the time being without any conveyance or assurance whatsoever.*

Charitable Trusts Act, 1860, ss. 2—5, 8–10, 23.

Certain administrative powers to be exercisable by the Charity Commissioners. [* *This Section is set out on p.* 406.] [† *Repealed by Statute Law Revision Act*, 1875.]

2. The Board of Charity Commissioners for England and Wales, subject to the restrictions and rights of appeal hereinafter provided, shall have power from time to time, upon the application of any person or persons who, under the *Forty-third Section of "the Charitable Trusts Act, 1853," might be authorised to apply to any Judge or Court for the like purposes, to make such effectual orders as may now be made by any Judge of the Court of Chancery sitting at Chambers, or by any County Court †*or District Court of Bankruptcy*, for the appointment or removal of trustees of any charity, or for the removal of any school master or mistress or other officer thereof, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate belonging thereto, or entitling the official trustees of charitable funds, or any other trustees, to call for a transfer of and to transfer any stock belonging to such estate, or for the establishment of any scheme for the administration of any such charity.

Board to notify to trustees of charity their intention of exercising jurisdiction.

3. The said Board, previously to making any order under the jurisdiction vested in them by this Act, shall notify to the trustees or administrators (if any) of the charity to be effected thereby their intention of exercising such jurisdiction, by notice in writing, to be delivered by them, or sent to them by the post at their last known place of abode in Great Britain or Ireland.

The powers to be exercisable over no charities of which the gross income shall exceed 50*l.* without application of trustees.

4. The said Board shall not make any order, under the jurisdiction vested in them by this Act, with respect to any charity of which the gross annual income, exclusively of the yearly value of any buildings or land used wholly for the purposes thereof, and not yielding any pecuniary income, shall amount to fifty pounds or upwards, except upon the application of the trustees or persons acting in the administration of the charity, or a majority of them, to be made to the said Board in writing under their hands if they shall be unincorporated, or under their common seal if they shall be incorporated, and the Board shall not make any order removing any trustee on the ground only of religious belief.

The Board shall not exercise jurisdiction over contentious cases.

5. The said Board also shall not exercise the jurisdiction hereby vested in them in any case which, by reason of its contentious character, or of any special questions of law or of fact which it may involve, or for other reasons, they may consider more fit to be adjudicated on by any of the judicial courts.

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Power to appeal against orders of Board.

8. The Attorney General, or any person authorised by him or by the said Board, in the case of any charity, whatever may be the yearly income of its endowments, and any trustee or person acting in the administration of or interested in any charity of which the gross yearly income to be calculated in manner aforesaid shall exceed fifty pounds or any two inhabitants of any parish or district in which the same shall be specially applicable, may, within three calendar months next after the definitive publication of any Order of the said Board appointing or removing a trustee or trustees, or for or relating to the assurance, transfer, payment or vesting of any real or personal estate, or establishing a scheme for the administration of the charity, present a petition to the High Court of Chancery in a summary way, appealing against such order, and praying such relief as the case may require; * * * and the Court, upon or before the hearing of any such petition of appeal as aforesaid or at any stage of the proceedings, may require, if it shall think fit, from the said Board their reasons for making the order appealed against, or for any part of such order, and may remit the same to the Board for reconsideration, with or without any declaration in relation thereto, or may make any substitutive or other order in relation to the matter of the appeal, as it shall think just; and the Court may make any order respecting the costs, charges, or expenses incident to the appeal, and may also, before hearing or proceeding with the same, require from any appellant, other than the Attorney General, proper security for such costs, charges and expenses as may be eventually payable by him; but no such petition of appeal shall be presented by any person, other than the Attorney General, before the expiration of twenty-one days after written notice, under the hand of such appellant, of his or her intention to present such petition, shall have been delivered to the said Board at their office.

Who may be the respondent on appeals.

9. The Attorney General, if he shall think fit, or any person authorised by him or by the said Board, may appear as the respondent upon any such appeal, and the Court may make any order respecting the costs, charges, and expenses of the Attorney General or other defendant.

Powers to be applicable to charities vested in corporations, &c.

10. The jurisdiction vested by this Act in the said Board shall be exercisable with reference to charities vested in any corporation sole or aggregate, who, either solely or jointly with any other person or persons, shall also be the recipients of the benefit thereof.

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Indemnity to the Bank of England and others.

23. Every Order made under this Act under which any Stock, Shares, Securities, or Monies shall be transferred or paid to or deposited with the Trustees of any Charity, or the Official Trustees of Charitable Funds, shall afford a complete indemnity to the Governor and Company of the Bank of England, and to all Companies and Persons by whom respectively any such Transfer, Payment, or Deposit shall be permitted or made, for permitting or making the same, and the said Governor and Company and other Companies and Persons shall be required to give effect or to conform to such Order, and it shall not be necessary for them to inquire concerning the Propriety of the same Order or the Jurisdiction under which the same shall purport to be made.

CHARITABLE TRUSTS ACT, 1869, ss. 4–6, 8, 10, 11.

Amendment of sect. 3 of 23 & 24 Vict. c. 136.

4. A notice under section three of the Charitable Trusts Act, 1860, need not be sent by the Board of Charity Commissioners for England and Wales to any trustee or administrator of a charity who has been party or privy to the application to the Board upon which they exercise their jurisdiction.

Mode of application to Board.

5. An application to the Board of Charity Commissioners for England and Wales, for the purposes of the Charitable Trusts Acts, 1853 to 1869, when made by the trustees or persons acting in the administration of the charity, may be made in writing signed by any person authorised in that behalf by a resolution passed by a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question.

Powers of Board on application.

6. The Board shall be deemed to have and to have always had power in any order made upon an application to them, for the exercise of their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, to insert in the order any incidental provisions which they think expedient for carrying into effect the substantial objects of the application, and which they would have had power to insert if such provisions had been included in the application.

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Discharge of order of Board for irregularity.

8. The Board shall be deemed to have and to have always had power with or without any application to discharge, within twelve months after an order is made by them, the whole or any part of any order appearing to have been made by them by mistake or on misrepresentation, or otherwise than in conformity with the Charitable Trusts Acts, 1853 to 1869. Every order made by the Board, in exercising their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, shall, until discharged or varied by the Board or by the Court of Chancery on appeal under Section Eight of the Charitable Trusts Act, 1860, have effect according to its tenor. Every order of the Board shall, subject to all powers which the Court of Chancery has to discharge or vary it, under Section Eight of the Charitable Trusts Act, 1860, and subject to the power of the Board to discharge it wholly or partially for the causes mentioned in this section, be deemed to have been duly and formally made, and no objection thereto on the ground only of irregularity or informality shall be entertained.

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Appeals under 23 & 24 Vict. c. 136.

10. A petition to the Court of Chancery under Section Eight of the Charitable Trusts Act, 1860, may be presented in the case of all charities by the same persons only as in the case of a charity the gross annual income of which does not exceed 50*l*.

Service of Attorney General by appellant under sect. 8 of 23 & 24 Vict. c. 136, s. 8.

11. A petition shall not be presented to the Court of Chancery by any person under Section Eight of the Charitable Trusts Act, 1860, before the expiration of 21 days after written notice under the hand of the appellant of his intention to present such petition has been served on the Attorney General by delivering the same to the solicitor who acts for him in ex-officio preceedings relating to charities.

Subordinate Act (*i.e.*, Act not dealing primarily with the Charity Commission).
Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, s. 133 (1).

(*d.*)—THE DEPOSIT AND SAFE CUSTODY OF TITLE DEEDS AND DOCUMENTS.

CHARITABLE TRUSTS ACT, 1853, s. 53.

Trustees may deposit deeds, &c. for security in a repository provided by the Board.

53. It shall be lawful for any trustees or other persons having the custody of any deeds or muniments of or relating to such charity to deposit the same for security in a repository which may be provided by the said Board, subject to any regulations to be made by the said Board under this Act.

CHARITABLE TRUSTS ACT, 1855, s. 42.

Deeds, &c. relating to charities may be enrolled at the office, and copies to be evidence.

42. Any deed, will, or document relating to any charity may be enrolled by the Board in books to be provided and kept by them for that purpose at their office, and a copy of any such deed, will, or document made from such books, and certified under the hand of the secretary or one of the Commissioners, shall be received as evidence of the contents of the same deed, will, or document.

CHARITABLE TRUSTS ACT, 1860, s. 19.

Power to require the transmission of documents belonging to charities.
[‡ *This should be the fifty-third Section.* See *supra.*]

19. The Board may require any person having the custody or control of any deed or document in which any charity or charities shall be solely interested to transmit the same to the office of the said Commissioners for examination; and where such deed or document shall not be held by any person entitled as a trustee or otherwise to the custody thereof, the Board may either retain the same, for the security thereof in the repository provided by them under the ‡sixty-third section of "The Charitable Trusts Act, 1853," or, as they may think most advantageous to the charity, may thereupon, or at any time thereafter, return or issue the same to the trustees or persons acting in the administration of the charity, for the purposes thereof.

(*e.*)—THE EXEMPTION FROM INCOME TAX AND THE TAXATION OF BILLS OF COSTS.

CHARITABLE TRUSTS ACT, 1855, ss. 28, 40.

Dividends on Stock in name of Official Fund Trustees to be carried to Account free from Income Tax.
[* *Repealed by Statute Law Revision Act*, 1892.]

28. All dividends arising from any Stock in the Public Funds standing in the Name of the Official Trustees of Charitable funds, and which shall be certified by the Board to * *the Governor and Company of* the Bank of England to be exempt from the Property or Income Tax, shall be paid or carried to the

the Banking Account of the Official Trustees without any deduction of such Tax; and all Dividends arising from any Stock in the Public Funds standing in any other Names or Name, and which the Board shall certify to *the *Governor and Company of* the Bank of England to be subject only to Charitable Trusts, and to be exempt from such Tax, shall be paid without any deduction thereof. [**Repealed by Statute Law Revision Act*, 1892.]

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Power to refer Bills of Costs in Charity matters to taxation.

40. The Board may order the Bill of Costs or Charges claimed by any Attorney or Solicitor on account of Business conducted or transacted by him on behalf of any Charity, or the Trustees thereof, to be examined and taxed by the Taxing Masters of the Court of Chancery, or by the proper Taxing Officers of any of the Superior Courts at Westminster, who shall proceed to examine and tax the same Bill accordingly; and if the same shall be reduced upon such taxation by the amount of one-sixth part or more of the amount thereof, the Costs of the taxation shall be paid by such Attorney or Solicitor, but otherwise out of the Funds of the Charity by the Trustees thereof; and the Board may, after being satisfied as to any Bill that it contains exorbitant charges, order any such Bill to be so taxed, notwithstanding that the same may have been paid by the Trustees of the Charity at any period not more than six calendar months previously to such Order; and any amount taxed off any such paid Bill shall be a debt due from the Attorney or Solicitor to the Trustees of the Charity, and shall be forthwith paid by him to such Trustees accordingly.

VIII.—Conferring on Charity Commissioners powers for, or incident to, the removal and appointment of Trustees and Officers:

Charitable Trusts Act, 1853, s. 22.
Charitable Trusts Act, 1855, s. 10.
Charitable Trusts Act, 1860, ss. 2–10, 13, 14.
Charitable Trusts Act, 1869, ss. 4-8, 10, 11.

Charitable Trusts Act, 1853, s. 22.

Commissioners to authorise trustees to remove officers.

22. It shall be lawful for the Board, upon proof to their satisfaction that any schoolmaster or schoolmistress or other officer of any charity has been negligent in performing his or her duties, or that he or she is unfit or incompetent to discharge them properly, either from immoral conduct, age, or any other cause whatsoever, to empower the trustees of such charity to remove such school master or mistress or other officer, and to charge the salary of his or her successors, or any other portion of the revenues of the charity, with such retiring pension or allowance, if any, in favour of the person so removed, and generally to impose such conditions as to the said Board shall appear proper: Provided always, that where there shall be any special visitor of the charity, the consent of such visitor, in writing under his hand, shall be necessary in order to such removal.

Charitable Trusts Act, 1855, s. 10.

Power to apportion Parochial Charities after division of parishes.

10. Where any Parish or Ecclesiastical District entitled to the Benefit of a Charity has or shall have been divided into separate Parishes or Ecclesiastical Districts, and no apportionment of Charities originally applicable to the Parish or District so divided shall have been made by Parliament or other competent Authority, the Board in respect of all Charities the gross annual income whereof does not for the time being exceed Thirty Pounds, may apportion the benefit of the Charity between each new Parish or District, or any portion thereof taken from the Parish or District originally entitled to the whole benefit, and the remainder of such last-mentioned Parish or District, in such manner and such proportions as, upon a consideration of the purposes of the Charity, the Population of each Parish or District, and other circumstances, they may think fit, and may also apportion the principal Endowments between such Parishes or Districts, if it be thought fit, and may appoint separate Trustees of any part of the Endowments.

Charitable Trusts Act, 1860, ss. 2–10, 13, 14.

Certain administrative powers to be exercisable by the Charity Commissioners.

2. The Board of Charity Commissioners for England and Wales, subject to the restrictions and rights of appeal hereinafter provided, shall have power from time to time, upon the application of any person or persons who, under the *forty-third section of "The Charitable Trusts Act, 1853," might be authorised to apply to any Judge or Court for the like purposes, to make such effectual orders as may now be made by any Judge of the Court of Chancery sitting at Chambers, or by any County Court †*or District Court of Bankruptcy*, for the appointment or removal of trustees of any charity, or for the removal of any school master or mistress or other officer thereof, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate belonging thereto, or entitling the Official Trustees of Charitable Funds, or any other trustees, to call for a transfer of and to transfer any stock belonging to such estate, or for the establishment of any scheme for the administration of any such charity. [* *This section is set out at* p. 406.] [† *Repealed by Statute Law Revision Act*, 1875.]

Board to notify to trustees of charity their intention of exercising jurisdiction.

3. The said Board, previously to making any order under the jurisdiction vested in them by this Act, shall notify to the trustees or administrators (if any) of the charity to be effected thereby their intention of exercising such jurisdiction, by notice in writing, to be delivered to them, or sent to them by the post at their last known place of abode in Great Britain or Ireland.

The powers to be exercisable over no charities of which the gross income shall exceed 50*l.* without application of trustees.

4. The said Board shall not make any order, under the jurisdiction vested in them by this Act, with respect to any charity of which the gross annual income, exclusively of the yearly value of any buildings or land used wholly for the purposes thereof, and not yielding any pecuniary income, shall amount to fifty pounds or upwards, except upon the application of the trustees or persons acting in the administration of the charity, or a majority of them, to be made to the said Board in writing under their hands if they shall be unincorporated, or under their common seal if they shall be incorporated, and the Board shall not make any order removing any trustee on the ground only of his religious belief.

The Board shall not exercise jurisdiction over contentious cases.

5. The said Board also shall not exercise the jurisdiction hereby vested in them in any case which, by reason of its contentious character, or of any special questions of law or of fact which it may involve, or for other reasons, they may consider more fit to be adjudicated on by any of the Judicial Courts.

Notices to be given of certain orders, and objections or suggestions to be received.

6. No order appointing or removing a trustee or establishing a scheme for the administration of any charity, shall be made by the said Board before the expiration of one calendar month after public notice of the proposal to make such order shall have been given, as they may consider most expedient and effectual for ensuring the publicity thereof, in each parish or district in which the charity, if of a local character, shall be applicable, or among all persons interested therein; and no order removing a trustee or school master or mistress or other officer of a charity who shall have any known place of residence in Great Britain or Ireland, and who shall not be consenting to be discharged

discharged, shall be made before the expiration of one calendar month after notice of the proposal to make such order shall have also been delivered to him or her, or sent by the post or otherwise to such his or her place of residence and until after sufficient hearing of the matter before the said Board, or some member thereof, or one of their *inspectors; and every notice hereby required shall contain (so far as conveniently may be) sufficient particulars of the objects of the proposed order, and shall prescribe a reasonable time within which any objections thereto or suggestions thereon may be made or transmitted to the Board; and the said Board shall receive and consider all such objections and suggestions, and may withhold, suspend, or modify their proposed Order, as they shall thereupon, or in the result of further inquiry, or otherwise think expedient.

[* Now "*Assistant-Commissioners.*"]

Publication of definitive Orders.

7. A copy of every such Order when made shall, in the case of any local charity, be deposited for the space of one calendar month in some convenient place within the parish or one of the parishes or in the district in which the charity shall be applicable, and shall be open to public inspection there at all reasonable hours during the same period; and a copy also of every such Order relating to any charity, whether local or general, shall be kept open to public inspection at all reasonable hours, at the office of the Commissioners, during a like period of one calendar month; and in each case effectual publicity shall be given to the making of the Order by such means as the Board shall consider most expedient for that purpose.

Power to appeal against Orders of Board.

8. The Attorney General, or any person authorised by him or by the said Board, in the case of any charity, whatever may be the yearly income of its endowments, and any trustee or person acting in the administration of or interested in any charity of which the gross yearly income to be calculated in manner aforesaid shall exceed fifty pounds, or any two inhabitants of any parish or district in which the same shall be specially applicable, may, within three calendar months next after the definitive publication of any Order of the said Board appointing or removing a trustee or trustees, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate, or establishing a scheme for the administration of the charity, present a petition to the High Court of Chancery in a summary way, appealing against such Order, and praying such relief as the case may require; and any schoolmaster or schoolmistress or other officer removed by the Order of the Board, without the concurrence of the trustees or persons acting in the administration of the charity, or a majority of them, and without the approval of a special visitor, if any, of the charity, may, within two calendar months (next after his or her removal), appeal in like manner against the Order of removal; and the Court upon or before the hearing of any such petition of appeal as aforesaid or at any stage of the proceedings, may require, if it shall think fit, from the said Board, their reasons for making the Order appealed against, or for any part of such Order, and may remit the same to the Board for reconsideration, with or without any declaration in relation thereto, or may make any substitutive or other Order in relation to the matter of the appeal, as it shall think just; and the Court may make any Order respecting the costs, charges, or expenses incident to the appeal, and may also, before hearing or proceeding with the same, require from any appellant, other than the Attorney General, proper security for such costs, charges, and expenses as may be eventually payable by him; but no such petition of appeal shall be presented by any person, other than the Attorney General, before the expiration of twenty-one days after written notice, under the hand of such appellant, of his or her intention to present such petition, shall have been delivered to the said Board at their office.

Who may be the respondent on appeals.

9. The Attorney General, if he shall think fit, or any person authorised by him or by the said Board, may appear as the respondent upon any such appeal, and the Court may make any Order respecting the costs, charges, and expenses of the Attorney General or other defendant.

Powers to be applicable to charities vested in corporations, &c.

10. The jurisdiction vested by this Act in the said Board shall be exercisable with reference to charities vested in any corporation sole or aggregate, who, either solely or jointly with any other person or persons, shall also be the recipients of the benefit thereof

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Power for magistrates to give possession of school buildings and property held over by officers or recipients of charities.

13. Where any school master or mistress or other officer, or any recipient of the benefit of a charity, being in possession by virtue of his or her office, or as such recipient, of any house, buildings, land, or property of the charity, shall have been removed from or shall cease to hold such his or her office, or his or her place as such recipient, but he or she, or any person claiming under him or her, shall refuse or neglect to relinquish the possession of such house, buildings, land, or property within one calendar month next thereafter, to his or her successor, or to the trustees or persons acting in the administration of the charity, or as they shall direct, it shall be lawful for any two or more justices of the peace acting for the district, division, or place in which such house, buildings, land, or property shall be situate, in petty sessions assembled, and they are hereby required, on the complaint of the said trustees or administrators, and on the production of an Order of the said Board certifying such school master or mistress or other officer or recipient, to have been duly removed from or to have ceased to hold his or her office or place (which Order under the seal of the said Commissioners shall be conclusive evidence of the facts thereby certified, and of the jurisdiction of the said Commissioners to make such Order for all the purposes of this enactment, and shall afford a complete indemnity to all persons acting thereunder), to issue a warrant under the hands and seals of such justices to any constables or peace officers of the same district, division, or place, commanding them, within a period to be thereby appointed, not being less than ten or more than twenty-one clear days thereafter, to enter into the premises, and deliver possession thereof to the said trustees or administrators, or their nominee or agent, and to remove therefrom such former school master or mistress, or other officer or recipient, and all persons claiming in his or her right, as fully and effectually, and subject to the same provisions, as nearly as the case will permit, as justices of the peace are empowered to give possession of any properties to the landlord or his agent upon the determination of the tenancy thereof, under an Act passed in the first and second years of the reign of Her Majesty, chapter seventy-four, for facilitating the recovery of possession of tenements after the determination of the tenancy.

Masters and mistresses of endowed schools to be removable.

14. Every school master and mistress appointed after the date of this Act shall be removable from his or her office, after reasonable notice by the trustees or persons acting in the administration of the charity, as they shall think expedient in the interests thereof, so nevertheless that the removal by virtue only of this provision of a master or mistress who would be otherwise irremovable from his or her office shall be determined on by all or a majority of such trustees or administrators assembled at a meeting convened by due notice, delivered or sent by the post to all such trustees or administrators who shall have any known place of residence in Great Britain or Ireland, by the space of not less than twenty-eight days previously, for the special purpose of considering and determining on the question of such removal, and of which intended meeting a notice shall also be delivered or sent in like manner to the master or mistress by the same previous space, and so also that the resolution of the meeting for the removal of any such last-mentioned master or mistress shall be forthwith certified under the hands of the trustees or persons acting as aforesaid who shall have concurred therein, or under the hand of the chairman of the meeting, and shall within seven days next thereafter be transmitted to the said Board for their approval, and the same shall not take effect unless or until the same shall have been approved by the said Board, who may also, if they so think fit, fix the time or any reasonable conditions at or under which the same shall come into operation; if also there shall be any special visitor of the charity who shall be resident in Great Britain or Ireland and free from incapacity, no removal of any such last-mentioned master or mistress shall be made under the authority only of the preceding provision without the written consent of such visitor: Provided always, that this section shall not apply to any endowed grammar school.

CHARITABLE TRUSTS ACT, 1869, ss. 4–8, 10, 11.

4. A notice under section three of the Charitable Trusts Act, 1860, need not be sent by the Board of Charity Commissioners for England and Wales to any trustee or administrator of a charity who has been party or privy to the application to the Board upon which they exercise their jurisdiction. Amendment of sect. 3 of 23 & 24 Vict. c. 136

5. An application to the Board of Charity Commissioners for England and Wales, for the purposes of the Charitable Trusts Acts, 1853 to 1869, when made by the trustees or persons acting in the administration of the charity, may be made in writing signed by any person authorised in that behalf by a resolution passed by a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question. Mode of application to Board.

6. The Board shall be deemed to have and to have always had power in any order made upon an application to them, for the exercise of their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, to insert in the order any incidental provisions which they think expedient for carrying into effect the substantial objects of the application, and which they would have had power to insert if such provisions had been included in the application. Powers of Board on application.

7. Nothing in the Charitable Trusts Acts, 1853 to 1869, shall be deemed to require or to have required the Board, upon modifying a proposed Order in the manner provided by section six of the Charitable Trusts Act, 1860, after the publication thereof, to give public notice of such modified Order in the manner provided by that section with respect to the Order originally proposed, unless they think further notice desirable. Notice of order, 23 & 24 Vict. c. 136, s. 6.

8. The Board shall be deemed to have and to have always had power with or without any application to discharge, within twelve months after an order is made by them, the whole or any part of any order appearing to have been made by them by mistake or on misrepresentation, or otherwise than in conformity with the Charitable Trusts Acts, 1853 to 1869. Every order made by the Board, in exercising their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, shall, until discharged or varied by the Board or by the Court of Chancery on appeal under section eight of the Charitable Trusts Act, 1860, have effect according to its tenor. Every order of the Board shall, subject to all powers which the Court of Chancery has to discharge or vary it, under section eight of the Charitable Trusts Act, 1860, and subject to the power of the Board to discharge it wholly or partially for the causes mentioned in this section, be deemed to have been duly and formally made, and no objection thereto on the ground only of irregularity or informality shall be entertained. Discharge of Order of Board for irregularity.

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10. A petition to the Court of Chancery under section eight of the Charitable Trusts Act, 1860, may be presented in the case of all charities by the same persons only as in the case of a charity the gross annual income of which does not exceed fifty pounds. Appeals under 23 & 24 Vict. c. 136.

11. A petition shall not be presented to the Court of Chancery by any person under section eight of the Charitable Trusts Act, 1860, before the expiration of twenty-one days after written notice under the hand of the appellant of his intention to present such petition has been served on the Attorney General by delivering the same to the solicitor who acts for him in ex-officio proceedings relating to charities. Service of Attorney General by appellant under sect. 8 of 23 & 24 Vict. c. 136, s. 8.

Subordinate Acts (Acts not dealing primarily with the Charity Commission) :

Bishops Trusts Substitution Act, 1858, 21 & 22 Vict. c. 71, s. 1.
Municipal Corporations Act, 1883, 46 & 47 Vict. c. 18, s. 8 (1).
Mortmain and Charitable Uses Act, 1891, 54 & 55 Vict. c. 73, s. 6.
Local Government Act, 1894, 56 & 57 Vict. c. 73, s. 14 (1) (3).

IX. Providing for the establishment of Schemes and for the application of the Income of Charities by means of—

(*a.*) Parliamentary Schemes :
Charitable Trusts Act, 1853, ss. 54–60.
" " 1855, s. 43.

(*b.*) Schemes established by the Charity Commissioners :
Charitable Trusts Act, 1860, ss. 2-10.
" " 1869, ss. 4–8, 10, 11.

(*c.*) Orders made by the Charity Commissioners for the apportionment of Charities :
Charitable Trusts Act, 1855, ss. 10, 11, 13, 14.

(*a.*)—PARLIAMENTARY SCHEMES.

CHARITABLE TRUSTS ACT, 1853, ss. 54–60.

54. Where upon the application of any trustees or other persons concerned in the management or administration of any charity, or interested in the benefits thereof (and after such examination or inquiry as the Board may think necessary in relation thereto), or upon any report of an *inspector, or information otherwise obtained by the said Board under this Act, with relation to any charity, it shall appear to the said Board to be desirable to have a new scheme for the application or management of the charity, and such new scheme as contemplated or considered desirable by the Board cannot be, or it shall in the opinion of the Board be doubtful whether it can be carried into complete effect by the Court of Chancery, or by any† *District or* County Court under the jurisdiction created by this Act, or otherwise than by the authority of Parliament, it shall be lawful for the said Board in every such case provisionally to approve and certify such new scheme in the manner and subject to the regulations herein-after mentioned. Power to Board to frame schemes for the appropriation of charitable property to varied trusts.
[* Now "*Assistant Commissioner.*"]
[† *Repealed by Statute Law Revision Act*, 1892.]

Notice to be given before approval of schemes, and objections may be submitted for the consideration of the Board.
[* *Now "the office of the Board." See Charitable Trusts Act, 1855, s. 43, infra*]

55. One month at least before any such new scheme shall be so provisionally approved, notice thereof shall be given in such manner as the Board may in each case consider proper or expedient for ensuring due publicity, and every such notice shall contain such particulars of the proposed scheme as the said Board think fit, and as shall be deemed by the said Board sufficient to show the nature of such scheme, and where the nature thereof cannot conveniently be shown in the said notice, such notice shall refer to some convenient place within the parish or district, and to *the office in London of the Registrar of County Court Judgments, where a copy of the proposed scheme shall be deposited and may be inspected, and every such notice shall require any objections to such scheme to be stated or transmitted to the said Board or their secretary within one month from the time when the notice shall have been given.

Board may alter or modify or approve of schemes.
[* *Now "Assistant Commissioner."*]

56. If after such notice as aforesaid any objections or suggestions shall be made, the Board shall consider the same, and may thereupon, if to them it shall seem fit, alter or modify the scheme according to any such objections or suggestions; and after all such objections and suggestions, if any, have been disposed of, or if no such objections or suggestions shall have been made, the Board, in case they shall not think fit to refer such scheme to an inspector* under the provision next herein-after contained, may proceed to approve such scheme, and to certify the same in manner hereinafter mentioned.

The matter of schemes may be referred to an inspector for local inquiry.
[* *Now "Assistant Commissioner."*]

57. Upon the requisition of any person interested in the charity in question (in case the said Board after due consideration shall be of opinion that there are sufficient grounds for complying with such requisition), or in any other case, if the said Board shall consider it desirable, the matter of any scheme in question may be referred by the said Board to one of their inspectors*, and such inspector* shall thereupon proceed to make a local inquiry and examination into the matter of the scheme in question, and, for the purposes of such inquiry, such inspector* may hold a sitting or sittings in some convenient place in the parish or one of the parishes or the district to or in which respectively the charity in question is wholly or partially situated or is administered, and may take and receive any evidence and information, and hear and inquire into any objections or questions relating to the scheme or charity in question, and may from time to time adjourn any such sitting, and public notice shall be given by such inspector* of every such sitting (except an adjourned sitting) fourteen days at the least before the holding thereof, in such other mode as in the judgment of the said Board shall be sufficient to ensure publicity.

Inspectors to report the result of inquiry to the Board.
[* *Now "Assistant Commissioner."*]

58. Every inspector* to whom any such matter shall be referred shall report in writing to the said Board the result of his inquiry, and whether in his opinion the scheme in question should be approved with or without any alteration or modification thereof, and such report shall specify or indicate the alterations (if any) which such inspector* shall consider desirable, with the reasons for the same, and also the nature of the objections (if any) which shall have been made to the scheme, and the opinion of the said inspector* thereon, and the said Board shall consider such report, and if, as the result of such report or after further inquiry, they shall be satisfied therewith, they may proceed to approve the scheme in question either with or without any alteration, and to certify the same in manner herein-after mentioned.

Schemes when approved to be certified by the Board.
Copy of such certificate to be deposited in the parish or district, and notice given.
[* *Now "the office of the Board." See Charitable Trusts Act, 1855, s. 43, infra.*]

59. Every scheme to be approved by the said Board shall be certified by them, and for that purpose shall be embodied in a certificate to be made by the said Board, and sealed with their seal; and in every case a copy of such certificate shall be deposited in some convenient place within the parish or one of the parishes or the district in which the charity in question shall wholly or partially be situated or administered, and at the office* in London of the Registrar of County Courts Judgments, and a notice shall also be given, in such manner as the Board shall direct, which notice shall refer to the certificate so deposited, and shall state the intention of the Board to proceed with the scheme thereby certified.

Annual Report to be laid before Parliament, which shall set forth all the schemes approved.

60. The said Board shall in the month of February in every year make a report to Her Majesty of all their proceedings during the preceding year up to the thirty-first day of December then last past, and such report shall, within fourteen days after the making thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or otherwise within fourteen days after the meeting thereof; and in such report the said Board shall specially distinguish and set forth in full all the schemes (if any) approved by them under the provisions lastly herein-before contained, together with the grounds of such their approval, and the objections (if any) which have been made thereto, and all proceedings had in respect of such objections and the grounds on which any such objections have been overruled; and in case it shall be enacted by any Act of Parliament that any such scheme or schemes so certified shall be confirmed and take effect, either with or without any alterations or modifications thereof respectively, every such Act shall be deemed a Public General Act.

CHARITABLE TRUSTS ACT, 1855, s. 43.

Construction of sects. 55 and 59 of 16 & 17 Vict. c. 137.

43. The fifty-fifth and fifty-ninth sections of the principal Act shall be construed and operate as if the words "the office of the Board" had been inserted therein in the place of the words "the office in London of the Registrar of County Courts Judgments."

(*b.*) SCHEMES ESTABLISHED BY THE COMMISSIONERS.

CHARITABLE TRUSTS ACT, 1860, ss. 2–10.

Certain administrative powers to be exercisable by the Charity Commissioners.
[* *This section is set out on p. 406.*]
[† *Repealed by Statute Law Revision Act, 1875.*]

2. The Board of Charity Commissioners for England and Wales, subject to the restrictions and rights of appeal herein-after provided, shall have power from time to time, upon the application of any person or persons who, under the *forty-third section of "the Charitable Trusts Act, 1853," might be authorised to apply to any judge or court for the like purposes, to make such effectual orders as may now be made by any judge of the Court of Chancery sitting at chambers, or by any county court †*or District Court of Bankruptcy*, for the appointment or removal of trustees of any charity, or for the removal of any school master or mistress or other officer thereof, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate belonging thereto, or entitling the official trustees of charitable funds, or any other trustees, to call for a transfer of and to transfer any stock belonging to such estate, or for the establishment of any scheme for the administration of any such charity.

Board to notify to trustees of charity their intention of exercising jurisdiction.

3. The said Board, previously to making any order under the jurisdiction vested in them by this Act, shall notify to the trustees or administrators (if any) of the charity to be effected thereby their intention of exercising such jurisdiction, by notice in writing, to be delivered to them, or sent to them by post at their last known place of abode in Great Britain or Ireland.

4. The

4. The said Board shall not make any order, under the jurisdiction vested in them by this Act, with respect to any charity of which the gross annual income, exclusively of the yearly value of any buildings or land used wholly for the purposes thereof, and not yielding any pecuniary income, shall amount to fifty pounds or upwards, except upon the application of the trustees or persons acting in the administration of the charity, or a majority of them, to be made to the said Board in writing under their hands if they shall be unincorporated, or under their common seal if they shall be incorporated, and the Board shall not make any order removing any trustee on the ground only of his religious belief. The powers to be exercisable over no charities of which the gross income shall exceed 50*l.* without application of trustees.

5. The said Board also shall not exercise the jurisdiction hereby vested in them in any case which, by reason of its contentious character, or of any special questions of law or of fact which it may involve, or for other reasons, they may consider more fit to be adjudicated on by any of the Judicial Courts. The Board shall not exercise jurisdiction over contentious cases.

6. No order appointing or removing a trustee, or establishing a scheme for the administration of any charity, shall be made by the said Board before the expiration of one calendar month after public notice of the proposal to make such order shall have been given, as they may consider most expedient and effectual for ensuring the publicity thereof, in each parish or district in which the charity, if of a local character, shall be applicable, or among all persons interested therein; * * * * and every notice hereby required shall contain (so far as conveniently may be) sufficient particulars of the objects of the proposed order, and shall prescribe a reasonable time within which any objections thereto, or suggestions thereon may be made or transmitted to the Board; and the said Board shall receive and consider all such objections and suggestions, and may withhold, suspend, or modify their proposed order, as they shall thereupon, or in the result of further inquiry, or otherwise, think expedient. Notices to be given of certain orders, and objections or suggestions to be received.

7. A copy of every such order when made shall in the case of any local charity, be deposited for the space of one calendar month in some convenient place within the parish or one of the parishes, or in the district in which the charity shall be applicable, and shall be open to public inspection there at all reasonable hours during the same period; and a copy also of every such order relating to any charity, whether local or general, shall be kept open to public inspection at all reasonable hours, at the office of the commissioners, during a like period of one calendar month; and in each case effectual publicity shall be given to the making of the order by such means as the Board shall consider most expedient for that purpose. Publication of definitive orders.

8. The Attorney General, or any person authorised by him or by the said Board, in the case of any charity, whatever may be the yearly income of its endowments, and any trustee or person acting in the administration of, or interested in any charity of which the gross yearly income to be calculated in manner aforesaid shall exceed fifty pounds, or any two inhabitants of any parish or district in which the same shall be specially applicable, may, within three calendar months next after the definitive publication of any order of the said Board appointing or removing a trustee or trustees, or for or relating to the assurance, transfer, payment or vesting of any real or personal estate, or establishing a scheme for the administration of the charity, present a petition to the High Court of Chancery in a summary way, appealing against such order, and praying such relief as the case may require; * * * * * and the court upon or before the hearing of any such petition of appeal as aforesaid or at any stage of the proceedings, may require, if it shall think fit, from the said Board, their reasons for making the order appealed against, or for any part of such order, and may remit the same to the Board for reconsideration, with or without any declaration in relation thereto, or may make any substitutive or other order in relation to the matter of the appeal, as it shall think just; and the court may make any order respecting the costs, charges, or expenses incident to the appeal, and may also, before hearing or proceeding with the same require, from any appellant other than the Attorney General, proper security for such costs, charges and expenses as may be eventually payable by him; but no such petition of appeal shall be presented by any person, other than the Attorney General, before the expiration of twenty-one days after written notice, under the hand of such appellant, of his or her intention to present such petition, shall have been delivered to the said Board at their office. Power to appeal against orders of Board.

9. The Attorney General, if he shall think fit, or any person authorised by him or by the said Board, may appear as the respondent upon any such Appeal, and the Court may make any order respecting the costs, charges, and expenses of the Attorney General or other defendant. Who may be the respondent on appeals.

10. The jurisdiction vested by this Act in the said Board shall be exercisable with reference to charities vested in any corporation sole or aggregate, who, either solely or jointly with any other person or persons, shall also be the recipients of the benefit thereof. Powers to be applicable to charities vested in corporations, &c.

Charitable Trusts Act, 1869, ss. 4–8, 10, 11.

4. A notice under section three of the Charitable Trusts Act, 1860, need not be sent by the Board of Charity Commissioners for England and Wales to any trustee or administrator of a charity who has been party or privy to the application to the Board upon which they exercise their jurisdiction. Amendment of sect. 3 of 23 & 24 Vict. c. 136.

5. An application to the Board of Charity Commissioners for England and Wales, for the purposes of the Charitable Trusts Acts, 1853 to 1869, when made by the trustees or persons acting in the administration of the charity, may be made in writing signed by any person authorised in that behalf, by a resolution passed by a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question. Mode of application to Board.

6. The Board shall be deemed to have and to have always had power in any order made upon an application to them, for the exercise of their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, to insert in the order any incidental provisions which they think expedient for carrying into effect the substantial objects of the application, and which they would have had power to insert if such provisions had been included in the application. Powers of Board on Application.

7. Nothing in the Charitable Trusts Acts, 1853 to 1869, shall be deemed to require or to have required the Board, upon modifying a proposed order in manner provided by section six of the Charitable Trusts Act, 1860, after the publication thereof, to give public notice of such modified order in the manner provided by that section with respect to the order originally proposed, unless they think further notice desirable. Notice of Order, 23 & 24 Vict. c. 36, s. 6.

8. The Board shall be deemed to have and to have always had power with or without any application to discharge, within twelve months after an order is made by them, the whole or any part of any order appearing to have been made by them by mistake or on misrepresentation, or otherwise than in conformity with the Charitable Trusts Act, 1853 to 1869. Discharge of order of Board for irregularity.

Every order made by the Board, in exercising their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, shall, until discharged or varied by the Board or by the Court of Chancery on appeal under Section 8 of the Charitable Trusts Act, 1860, have effect according to its tenor.

Every order of the Board shall, subject to all powers with the Court of Chancery has to discharge or vary it, under Section 8 of the Charitable Trusts Act, 1860, and subject to the power of the Board to discharge it wholly or partially for the causes mentioned in this section, be deemed to have been duly and formally made, and no objection thereto on the ground only of irregularity and informality shall be entertained.

* * * * * * * * *

Appeals under 23 & 24 Vict. c. 136.

10. A petition to the Court of Chancery under section eight of the Charitable Trusts Act, 1860, may be presented in the case of all charities by the same persons only as in the case of a charity the gross annual income of which does not exceed fifty pounds.

Service of Attorney General by appellant under sect. 8 of 23 & 24 Vict. c. 136, s. 8.

11. A petition shall not be presented to the Court of Chancery by any person under section eight of the Charitable Trusts Act, 1860, before the expiration of twenty-one days after written notice under the hand of the appellant of his intention to present such petition has been served on the Attorney General by delivering the same to the solicitor who acts for him in ex-officio proceedings relating to charities.

Subordinate Acts (*i.e.*, Acts not dealing primarily with the Charity Commission):

Recreation Grounds Act, 1859, 22 Vict. c. 27, s. 5.
Commons Act, 1876, 39 & 40 Vict. c. 56, s. 19.
Prison Charities Act, 1882, 45 & 46 Vict. c. 65, s. 2.
Allotments Extension Act, 1882, 45 & 46 Vict. c. 80, s. 14.
Municipal Corporations Act, 1883, 46 & 47 Vict. c. 18, ss. 3, 8 (4) (5).
Local Government Act, 1894, 56 & 57 Vict. c. 73, s. 14 (5).

(*c.*)—ORDERS MADE BY THE CHARITY COMMISSIONERS FOR THE APPORTIONMENT OF CHARITIES.

CHARITABLE TRUSTS ACT, 1855, ss. 10, 11, 13, 14.

Power to apportion parochial charities after division of parishes.

10. Where any parish or ecclesiastical district entitled to the benefit of a charity has or shall have been divided into separate parishes or ecclesiastical districts, and no apportionment of charities originally applicable to the parish or district so divided shall have been made by Parliament or other competent authority, the Board in respect of all charities the gross annual income whereof does not for the time being exceed thirty pounds, may apportion the benefit of the charity between each new parish or district, or any portion thereof taken from the parish or district originally entitled to the whole benefit, and the remainder of such last-mentioned parish or district, in such manner and such proportions as, upon a consideration of the purposes of the charity, the population of each parish or district, and other circumstances, they may think fit, and may also apportion the principal endowments between such parishes or districts, if it be thought fit, and may appoint separate Trustees of any part of the endowments.

Evidence as to annual income of any charity not exceeding 30*l.*

11. The certificate of the Board, that according to their judgment the gross yearly income of any charity does not for the time being exceed thirty pounds, shall be sufficient evidence of the amount of such annual income for the purpose of determining the jurisdiction under the foregoing provision.

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Notices to be given of certain orders of the Board.

13. No order for apportioning the benefits of any charity shall be made by the Board until after such public notices shall have been given of the proposal to make the same as the Board may consider expedient for ensuring publicity in each parish or district in which the charity is or ought to be applied, or among all persons interested therein, nor until after the expiration of one month from the publication of such notice; and every such notice shall contain (so far as conveniently may be) sufficient particulars of the proposed order to show the objects thereof, and shall prescribe a time within which any objections thereto may be stated or transmitted to the Board.

Proceedings upon the receipt of objections or suggestions.

14. All objections which may be made to any proposed order shall be considered by the Board, who may suspend the making thereof for further inquiry, or may modify the same, as may be found expedient; and a copy of every such order when made shall, in the case of any local charity, be deposited for the space of one month in some convenient place within the parish, or one of the parishes or the district in which the charity is applicable, and also be open to inspection at the office of the commissioners, and such publicity shall be given thereto among all persons interested in the charity as the Board shall consider expedient; or if the charity be not local, then a copy of such order shall be open to inspection at the office of the commissioners, and public notice thereof shall be given in such manner as to the Board shall seem fit, and in cases where there is a special visitor notice shall be given to him.

Subordinate Act, (*i.e.*, Act not dealing primarily with the Charity Commission):
Local Government Act, 1894, 56 & 57 Vict., c. 73, s. 75 (2).

X.—Exemptions from jurisdiction created by Charitable Trusts Acts, and provisions incidental thereto:

Charitable Trusts Act, 1853, s. 62, 63, 67.
Charitable Trusts Act, 1855, ss. 47, 49.
Charitable Trusts Act, 1869, ss. 2, 14, 15.
Charitable Trusts (Recovery) Act, 1891, s. 7.

CHARITABLE TRUSTS ACT, 1853, ss. 62, 63, 67.

Exemptions from the operation of Act. [**Repealed by Statute Law Revision Act*, 1875.]

62. This Act shall not extend to the Universities of Oxford, Cambridge, London, or Durham, or any College or Hall in the said Universities of Oxford, Cambridge, and Durham, or to any Cathedral or Collegiate Church, or to any building registered as a Place of Meeting for Religious Worship with the Registrar General of Births, Deaths, or Marriages in England and Wales, and bonâ fide used as a Place of Meeting for Religious Worship,* *nor shall this Act, for the period of two years from the passing thereof, extend or be in any manner applied to charities or institutions the funds or income of which are applicable exclusively for the benefit of persons of the Roman Catholic persuasion, and which are under the superintendence or control of persons of that persuasion,* nor shall this Act extend or be applied to the Commissioners of Queen Anne's Bounty, or to the British Museum, or to any friendly or benefit society, or savings bank, or any institution, establishment, or society for religious or other charitable purposes, or to the auxiliary or branch associations connected therewith, wholly maintained by voluntary contributions, or any bookselling or publishing business carried on by or under the direction of any society wholly or partially exempted from this Act, so far as such business is or shall be carried on by means of voluntary contributions only, or the capital or stock of such business; and where any charity is maintained partly

partly by voluntary subscriptions and partly by income arising from any endowment, the powers and provisions of the Act, shall, with respect to such charity, extend and apply to the income from endowment only, to the exclusion of voluntary subscriptions, and the application thereof; and no donation or bequest unto or in trust for any such charity as last aforesaid, of which no special application or appropriation shall be directed or declared by the donor or testator, and which may legally be applied by the governing or managing body of such charity as income in aid of the voluntary subscriptions, shall be subject to the jurisdiction or control of the said board, or the powers or provisions of this Act: and no portion of any such donation or bequest as last aforesaid, or of any voluntary subscription, which is now or shall or may from time to time be set apart or appropriated and invested by the governing or managing body of the charity, for the purpose of being held and applied or expended for or to some defined and specific object or purpose connected with such charity, in pursuance of any rule or resolution made or adopted by the governing or managing body of such charity, or of any donation or bequest in aid of any fund so set apart or appropriated for any such object or purpose as aforesaid, shall be subject to the jurisdiction or control of the said board or the powers or provisions of this Act; and nothing in this Act shall subject the funds or property of any missionary or other similar society, or the missionaries, teachers or officers of such society, or of any branch thereof, which funds or property shall not be within the limits of England or Wales, to the jurisdiction of the said board: Provided always, that the said exemption shall not extend to any cathedral, collegiate, chapter or other schools.

Provisions as to charities supported partly by voluntary subscriptions.

63.° *It shall be lawful for any of the charities exempted from the operation of this Act, by order or resolution duly made in conformity with the constitution or rules of such charity (and which in that case only shall be binding), to apply by petition to the commissioners to have the benefit of this Act, either generally or as to any of the provisions herein contained; and such petition shall be under the seal of such charity if incorporated, and if not, then under the hands of the major part of the trustees and governing body of such charity; and in such case it shall be lawful for the commissioners, if they shall think fit, to make an order in conformity with such application, and such charity shall thenceforth be entitled to and be bound by all the provisions of this Act, if admitted generally thereto, or by such of the enactments thereof, as shall be mentioned and specified in such order of the commissioners, but in either case in the same manner as if such charity had not been exempted from this Act, or such exemption had not extended to the enactments specified in such order.*

Exempted Charities may petition Commissioners to have benefit of Act.

[**Repealed by Charitable Trusts Act*, 1869, s. 17.]

* * * * * * * * *

67. This Act shall not extend to Scotland or Ireland.

Extent of Act.

Charitable Trusts Act, 1855, ss. 47, 49.

47°. *Neither this Act nor the principal Act shall, until the first day of September One thousand eight hundred and fifty-six, extend or be in any manner applied to charities or institutions the funds or income of which are applicable exclusively for the benefit of persons of the Roman Catholic persuasion, and which are under the superintendence and control of persons of that persuasion*, nor shall anything in this Act extend to any of the cases which by the sixty-second section of the principal Act are excepted from the operation thereof.

Acts not to apply to Roman Catholic Charities until 1st September 1856.

[**Repealed by Statute Law Revision Act*, 1875]

* * * * * * * * *

49. Nothing in this Act or in the principal Act contained shall extend to the Colleges of Eton and Winchester, or either of them.

Act not to extend to Eton or Winchester.

Charitable Trusts Act, 1869, s. 2, 14, 15.

2. This Act shall not extend to Scotland or Ireland.

Extent of Act.

* * * * * * * * *

14. Either the trustees or the persons acting in the administration of any charity exempted from the operation of the Charitable Trusts Acts, 1853 to 1869, may apply to the Board to have the said Acts or any provisions thereof specified in the application extended to such charity: Such application shall be made by such of the said trustees or persons as, having regard to the value of the charity, might under the provisions of the said Acts, if the charity were not exempted therefrom, make an application for a scheme to any judge or court or to the Board, and shall be made in the same manner and according to the same regulations as such application.

On any such application the Board may make an order directing that the said Acts or any provisions of them specified in the application shall extend, and such Acts or provisions shall thereupon after the date of the order extend to such charity in the same manner as if it were not exempted therefrom.

Before making any order under this section the Board shall cause such notices of the proposed order to be given as by Section 3 of the Charitable Trusts Act, 1860, as amended by this Act, and by Section 6 of the same Act are required to be given before the making of an order for establishing a scheme.

Application by exempted charities to have benefit of Act. See 16 & 17 Vict. c. 137, s. 63.

15. So much of the Charitable Trusts Acts, 1853 to 1869, as authorises and relates to orders of the Board for the appointment or removal of trustees of a charity, or for or relating to the vesting of any real or personal estate belonging thereto, or for the establishment of any scheme for the administration of any charity, shall extend to buildings registered as places of meeting for religious worship with the Registrar-General of Births, Deaths, or Marriages in England, and bonâ fide used as places of meeting for religious worship: Provided that no such order shall be made except upon the application of the trustees or persons acting in the administration of the charity, made in manner provided by Section 4 of the Charitable Trusts Act, 1860, or by this Act. Save as provided by this Section, such buildings shall continue exempted from the Charitable Trusts Acts, 1853 to 1869.

Extension of part of Acts to registered places of religious worship.

Charitable Trusts (Recovery) Act, 1891, s. 7.

7. This Act shall not extend to Scotland or Ireland.

Extent of Act.

Subordinate Act (*i.e.*, Act not dealing primarily with the Charity Commission):

Places of Worship Registration Act, 1855, 18 & 19 *Vict.*, *c.* 81, *s.* 9.

XI. Provisions as to Interpretation, Definition, Titles, Savings, Repeals, &c.:

Charitable Trusts Act, 1853, ss. 46, 66, 68.
" " 1855, ss. 1, 2, 30, 44, 48, 50.
" " 1860, ss. 1, 25.
" " 1862, s. 1.
" " 1869, ss. 1, 3, 17.
" " 1887, ss. 1, 6.
Charitable Trusts (Recovery) Act, 1891, ss. 1, 2.

Charitable Trusts Act, 1853, ss. 46, 66, 68.

Reservation of Rights and Privileges of Church of England with respect to Charities.

46. Nothing herein contained shall diminish or detract from any right or privilege which by any rule or practice of the Court of Chancery, or by the construction of law, now subsists for the preference or the exclusive or special benefit of the Church of England, or the members of the same Church, in settling any scheme for the regulation of any charity, or in the appointment or removal of trustees, or generally in the application or management of any charity.

* * * * * * * * *

Interpretation of terms.
[* *Repealed by Statute Law Revision Act*, 1892.]
[† *Repealed by Statute Law Revision Act*, 1875.]
[‡ *Repealed by Statute Law Revision Act*, 1892.]

66. In the construction of this Act, except where the context or other provisions of the Act may require a different construction, **the expression "Court of Chancery" shall mean and include the Master of the Rolls and every Judge of the Court of Chancery in England;* the expression "Lord Chancellor" shall mean and include the Lord Chancellor of Great Britain and the Lord Keeper and the Commissioners of the Great Seal of Great Britain for the time being; †*the expression "District Court of Bankruptcy" and "District Court" shall mean and include every District Court of Bankruptcy established or to be established under the Act of the fifth and sixth years of the reign of Her present Majesty, Chapter Twenty-two, or under any other Act or Acts passed or to be passed for the alteration or amendment or the extension of the same Act, or for the Establishment of any District Court or Courts of Bankruptcy in England or Wales, and every Commissioner or Judge of every such District Court;* ‡ *the expression "County Court" shall mean and include every County Court holden or established or to be holden or established under the Act of the ninth and tenth years of Her Majesty, Chapter Ninety-five, or any Act or Acts passed or to be passed for the alteration or extension of the same Act, and every Judge of any such Court:* The expression "Charity" shall mean every endowed Foundation and Institution taking or to take effect in England or Wales, and coming within the meaning, purview, or interpretation of the Statute of the forty-third year of Queen Elizabeth, Chapter Four, or as to which, or the administration of the revenues or property whereof, the Court of Chancery has or may exercise jurisdiction; the expression "Trustee" of any charity shall mean and include every person and corporation seised or possessed of or entitled to any real or personal estate, or any interest therein, in trust for, or for the benefit of such Charity, or all or any of the objects or purposes thereof, and every member of any such Corporation; and the expression "the Board" shall mean the said Charity Commissioners sitting as a Board under this Act; and the expression "Endowment" shall mean and include all lands and real estate whatsoever, of any tenure, and any charge thereon, or interest therein, and all stocks, funds, moneys, securities, investments, and personal estate whatsoever, which shall for the time being belong to or be held in trust for any Charity, or for all or any of the objects or purposes thereof; ‡*and the expression "Land" shall extend to and include manors, messuages, buildings, tenements, and hereditaments, corporeal and incorporeal, of every tenure and description.*

* * * * * * * * *

Short title.

68. This Act may be cited as "The Charitable Trusts Act, 1853."

Charitable Trusts Act, 1855, ss. 1, 2, 30, 44, 48, 50.

16 & 17 Vict. c. 137 and this Act to be construed together.

1. "The Charitable Trusts Act, 1853," hereinafter called "the principal Act," and this Act, shall be construed together as one Act, and any provisions of the principal Act inconsistent with this Act are hereby repealed.

Provision as to the salary of one of the Commissioners repealed.
[* *Repealed by Statute Law Revision Act*, 1875.]

2.* *So much of the principal Act (Section IV.) as provides that after the thirty-first day of March one thousand eight hundred and fifty seven an annual salary shall be paid to one only of the Commissioners besides the Chief Commissioner is hereby repealed.*

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Sinking Fund to be provided for paying off Mortgages in lieu of Provision in Mortgage Deeds.
[* *Repealed by Statute Law Revision Act*, 1875.]

30* *So much of section twenty-one of the principal Act as requires a compulsory provision to be inserted in every mortgage for the payment of the principal money borrowed by annual instalments, and for the redemption and reconveyance of the mortgaged estates within the period of not more than thirty years, is hereby repealed.* * * * *

* * * * * * * * *

Amendment of Sec. 61, or 16 & 17 Vict. c. 137, and other Provision made as to the annual Returns of Accounts by Trustees of Charities.
[* *Repealed by Statute Law Revision Act*, 1875].

44* *Section sixty-one of "The Charitable Trusts Act, 1853," except so much thereof as enacts that the trustees or persons acting in the administration of every charity shall, in books to be kept by them for that purpose, regularly enter or cause to be entered full and true accounts of all money received and paid respectively on account of such charity, shall be repealed as to all accounts which such trustees or administrators shall not have been bound to render before the passing of this Act.* * * * *

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As to the term "Charity."

48. In the construction of the principal Act and this Act the word "Charity" shall include every institution in England or Wales endowed for charitable purposes, but shall not include any charity or institution expressly exempted from the operation of the Act of 1853, and words applying to any person or individual shall apply also to a Corporation whether sole or aggregate.

* * * * * * * * *

Short title.

50. This Act may be cited as "The Charitable Trusts Amendment Act, 1855."

Charitable Trusts Act, 1860, ss. 1, 25.

The Charitable Trusts Act to be construed with this Act.

1. "The Charitable Trusts Act, 1853," and "The Charitable Trusts Amendment Act, 1855," and this Act, shall be

construed together as one Act, and any provisions of the said former Acts inconsistent with this Act are hereby pealed.

* * * * * * * * *

25. This Act may be cited for all purposes by the Short Title of "The Charitable Trusts Act, 1860." Short title.

CHARITABLE TRUSTS ACT, 1862, s. 1.

Whereas by the Acts relating to the Charity Commissioners for England and Wales Authority has been given the Commissioners to make Orders for various Purposes in Charity Cases upon summary Application, and rticnlarly in relation to the Appointment and Removal of Trustees, and the Sale, Exchange, Leasing, and Improvent of the Property of Charities: And whereas in various Private Acts of Parliament and Decrees and Orders of e High Court of Chancery relating to Charities such Powers and Authorities are often given or reserved, with rections that the same shall be exercised by the said Court, or with its Sanction or Approbation, and Doubts are tertained whether in such Cases the Authority given to the Charity Commissioners can be validly exercised: Be it erefore enacted and declared as follows:

1. No Provision contained in any such Act of Parliament or Decree or Order as aforesaid for the Appointment Removal of Trustees of any Charity, or for or relating to the Sale, Exchange, Leasing, Disposal, or Improvement any Property, by or under the Order or with the Approval of the Court of Chancery, shall (in the Absence of any press Direction to the contrary, to be contained in any future Act of Parliament, Order, or Decree), exclude or ıpair any Jurisdiction or Authority which might otherwise be properly exercised for the like Purposes by the ıarity Commissioners for England and Wales. No provision in any Act of Parliament, or decree relating to any Charity under any Order of the Court of Chancery, to exclude any Jurisdiction which might otherwise be exercised by the Charity Commissioners.

CHARITABLE TRUSTS ACT, 1869, ss. 1, 3, 17.

Preliminary.

1. This Act may be cited as "The Charitable Trust Act, 1869." Short title.

* * * * * * * * *

3. This Act, so far as is consistent with the tenor thereof, shall be construed as one with the Charitable Trusts ct, 1853, the Charitable Trusts Amendment Act, 1855, and the Charitable Trusts Act, 1860, and the Act of the ssion of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter one hundred and relve, "for establishing the jurisdiction of the Charity Commissioners in certain cases" (which may be cited as the ıaritable Trusts Act, 1862), and those Acts, together with this Act, may be cited as the Charitable Trusts Acts, 353 to 1869. Act to be construed with 16 & 17 Vict. c. 137. 18 & 19 Vict. c. 124. 23 & 24 Vict. c. 136. 25 & 26 Vict. c. 112.

* * * * * * * * *

17. The enactments described in the schedule to this Act are hereby repealed; provided that, Repeal.

(1.) This repeal shall not affect anything already done or suffered, or any right acquired or order made, under such enactments:

(2.) Any proceedings already commenced under the enactments hereby repealed shall be proceeded with in the same manner as if this repeal had not been made.

SCHEDULE.

Date.	Title.	
16 & 17 Vict. c. 137 - -	An Act for the better administration of Charitable Trusts.	In part; namely, section sixty-three.
23 & 24 Vict. c. 136 - -	An Act to amend the law relating to the administration of Endowed Charities.	In part; namely, section sixteen.

CHARITABLE TRUSTS ACT, 1887, ss. 1, 6.

1. This Act may be cited as the Charitable Trusts Act, 1887, and shall be construed as one with the Charitable rusts Acts, 1853 to 1869, and, together with those Acts, may be cited as the Charitable Trusts Acts, 1853 to 1887.

* * * * * * * * *

6. The Acts specified in the Second Schedule to this Act are hereby repealed to the extent in the third column that schedule mentioned: Provided that Repeal.

(*a*) this repeal shall not affect anything already done or suffered, or the tenure, salary, or power of any officer holding office at the passing of this Act;

(*b*) this repeal, so far as regards the official trustees of charitable funds, shall take effect on the date on which regulations under this Act in relation to such trustees come into operation.

SCHEDULES.

SECOND SCHEDUDE.

ENACTMENTS REPEALED.

Session and Chapter.	Title of Act.	Part repealed.
16 & 17 Vict. c. 137 - -	The Charitable Trusts Act, 1853	So much of section one as relates to the inspectors ; section four ; section fifty-one down to "charitable funds and" inclusive, and section fifty-two down to the words "each separate charity and" inclusive.
18 & 19 Vict. c. 124 - -	The Charitable Trusts Amendment Act, 1855.	Section three ; in section four the words "or in his absence, of the chief clerk" ; in section five the words "or in his absence, of the chief clerk" ; section seventeen ; in section eighteen the word "present," and the words "to be so appointed" ; section twenty, from the words "and the secretary" inclusive to end of section ; section twenty-four, from "and the said trustees" inclusive to end of section.
23 & 24 Vict. c. 136 - -	The Charitable Trusts Act, 1860	In section seventeen the words "appointed under or in pursuance of the first or secondly recited Act."

CHARITABLE TRUSTS (RECOVERY) ACT, 1891, ss. 1, 2.

1. This Act, so far as is consistent with the tenor thereof, shall be construed together with the Charitable Trusts Acts, 1853 to 1869, and those Acts and this Act may be cited together as the Charitable Trusts Acts, 1853 to 1891, and this Act may be cited as the Charitable Trusts (Recovery) Act, 1891.

2. In this Act, unless the context requires otherwise,—

The expression "the Board" means the Charity Commissioners for England and Wales.

The expression "prescribed" means prescribed by rules made under the provisions of this Act.

SUBORDINATE ACTS (*i.e.*, Acts not dealing primarily with the Charity Commission).

Charitable Trustees Incorporation Act, 1872, 35 & 36 Vict., c. 24, ss. 14, 15.
Poor Allotments Management Act, 1873, 36 Vict., c. 19, s. 16.
Allotments Extension Act, 1882, 45 & 46 Vict., c 80, s. 15.
Municipal Corporations Act, 1882, 45 & 46 Vict., c. 50, s. 133 (2).
Municipal Corporations Act, 1883, 46 & 47 Vict., c. 18, s. 27.
Interpretation Act, 1889, 52 & 53 Vict., c. 63, s. 12 (14).
Mortmain and Charitable Uses Act, 1891, 54 & 55 Vict., c. 73, s. 10.
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1. *Transfer to the Charity Commission of the Powers under the several Acts, two additional Commissioners being specially charged with the Work; temporary Character (from year to year) of this Arrangement.*
2. *Statutory Jurisdiction and Powers in dealing with Endowments.*
3. *Procedure in respect of Schemes; Relations and Communications in the matter with the Education Department.*
4. *Continuous Character of the Work.*
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1. *Transfer to the Charity Commission of the Powers under the several Acts, two additional Commissioners being specially charged with the Work; temporary Character (from year to year) of this Arrangement:*

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2. *Explanations on the part of the Education Department.*

1. *Explanations on the part of the Charity Commission, with reference chiefly to the Provisions and Administration of the Intermediate Education Act of* 1889:

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Woods and Forests. Reference to the necessity of Treasury sanction, save under a very low limit of value, as regards the operation of the Commissioners of Woods and Forests, *Lowther* 2408, 2409. 2485.

Y.

Yorkshire. Return of Charities in the West Riding, the trustees of which have omitted for the last five years to transmit accounts to the Commissioners, *App.* 368.

Tabular statement of all schemes established in the county under the provisions of the Charitable Trusts Acts in each of the years 1884–93, with particulars as to the constitution of the various bodies of trustees, *App.* 350–361.

Young, Sir George, Bart. (Analysis of his Evidence.)—Experience of witness as a Charity Commissioner under the provisions of the Endowed Schools Acts since 1882, his district comprising several English counties and Wales, and his functions and policy being similar to those exercised by Mr. Richmond in his district, 1339–1342.

Jurisdiction exercised by witness, in the first instance, in Wales and Monmouthshire under the Welsh Intermediate Education Act of 1889; several important points in which this Act alters the jurisdiction and procedure under the Endowed Schools Acts, 1343–1348——Initiation of schemes in Wales by a local Committee, instead of by the Commissioners; how the former is constituted, 1345——Important provisions in the Welsh Act as to the funds that may be dealt with in the schemes, 1345, 1346——Additional conscience clause in the Welsh Act to that in the Endowed Schools Acts, 1346, 1347.

Formation of sixteen Committees for the counties and county-boroughs in Wales and Monmouthshire, who decided to proceed by asking the Charity Commissioners to draft schemes for them, instead of making their own schemes; large number of local governing bodies besides the county committees, 1349, 1350——Summary of the steps actually taken under the Welsh Act of 1889, and of the procedure and progress in the case of the several schemes, 1349-1351.

Report, 1894—*continued.*

Young, Sir George, Bart. (Analysis of his Evidence)—*continued.*

Establishment of a Central or Joint Education Board for Wales, the reports of which body to the Charity Commission will be submitted to the Treasury, and will be the basis of Treasury grants, 1349——Explanation as to the Commissioners having dissented from a small part of the scheme of the Joint Committee for Cardiganshire, and having submitted an alternative scheme, the House of Lords having set aside the former scheme, 1353–1359. 1362–1366——Scheme of the Joint Committee for Merionethshire objected to by the House of Lords, but subsequently amended and accepted 1360, 1361. 1363–1366.

Influence as regards the administration of witness' district of the Local Government Act of 1880, and the Local Taxation Act of 1890; 1369, 1370——Steps taken so to arrange the schemes as to facilitate the earning of the local taxation grant by secondary schools; communication with county councils upon this point, 1371.

[Second Examination.] Illustrations in Shropshire, Herefordshire, and Yorkshire, of the influence of the Local Taxation Act of 1890; and of the facilities provided for the earnings of local taxation grants by secondary schools, 1372–1375——Instances of the readiness shown in witness' district to co-operate with the county councils, 1373, 1374.

Explanations as to the extent to which witness acts, individually, without necessary reference to any other Commission or to the Board; several rules and precedents as regards new schemes by which he is guided when acting independently, 1376–1394. 1407. 1683, 1684——Part taken by witness at the Board in the work under the Charitable Trusts Acts, his full time outside the Board meetings being taken up with endowed schools' work, 1401——Statement as to witness and his colleague (Mr. Richmond) undertaking the duty of examining the school inspection reports of the Assistant Commissioners, this work not being imposed upon them by the Endowed Schools Act, 1401–1406. 1442–1447.

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Extent to which the decisions of the Charity Commissioners (as regards charitable trusts) are not subject to appeal to the Court of Chancery, or to the direct control of Parliament; analogy in the case of the Civil Service Commission, 1453–1464——Explanations with further reference to the inspection of schools by the Assistant Commissioners as a necessary means of ascertaining what amendments are required in the schemes; information sometimes obtained also through the accounts, 1478–1485. 1509–1514.

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Young, Sir George, Bart. (Analysis of his Evidence)—*continued.*

Education Committee, but by the local committees; liberal offers of sites and funds by landowners, 1546–1549——Instances of proposals for applying charity funds in Wales to the purposes of intermediate schools, 1549–1551.

Existence of some charitable funds in Wales for the putting out of apprentices; prospect of such funds being applied to technical education and other purposes, 1553–1558——Conflict at times between Welsh school trustees and the localities upon religious grounds in connection with the application of educational funds, 1559–1564——Explanatory statement as to a clause relating to religious education in boarding houses having been put into the Flintshire scheme, as well as into the Merioneth scheme, though rejected by the House of Lords in the latter case; framing of a small portion of the clause by the Education Department, 1565–1583.

Ample compensation for the poor under Clause 30 of the Endowed Schools Act of 1869 by the provisions made in their interest when doles and apprenticeships have been withdrawn, 1584–1590——Information respecting the Cradock Wells Charity at Cardiff, and the provision made for the poor out of the funds thereof as regards scholarships and technical education in the University College at Cardiff, 1591-1618.

Explanation that as regards the question of Parliamentary control and its sufficiency, witness considers that the present system, though satisfactory in the case of charity schemes, is not equally so in the case of schemes under the Endowed Schools Acts, some changes being necessary with respect to the latter, 1626–1634. 1685–1687——Responsibility of Parliament as well as of the Charity Commissioners for the adoption of the Cradock Wells scheme, 1635–1644.

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Statement as to the working of school schemes when approved by the Education Department resting with the Charitable Trusts side of the Commission, 1661-1669——Facilities for appeal from the Commissioners further adverted to, 1670–1672——Instances of conflict in Wales between the local committees and the Joint Education Committees, 1673, 1674. 1677——Explanation with further reference to the objections in the case of the Cardiganshire scheme, 1674–1676.

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[Third Examination.]—Exceptional circumstances under which schemes for endowed schools are laid before Parliament under the Act of 1873, though this was provided in all cases under the Act of 1869; 1720–1726——Few instances of modification of schemes in Parliament, this always taking place in the House of Lords, save in the Dauntsey case, 1727-1731.

Larger contributions obtained towards schools from County Councils in Wales, since the Welsh Intermediate Education Act, than in England; few schemes previously in Wales, owing to dissatisfaction with the Endowed Schools Act, 1732-1743——Probable increase of complaints from Wales by a transfer of powers from the Charity Commission to the local bodies, 1742-1747.

Explanations with further reference to the action of the local committees in Wales, and the changes made by the Commission in their proposals in certain cases; instance in Merionethshire, the House of Lords having eventually upheld the views of the Commission, instead of those of the local body and of the Education Department, 1748–1762——Complete Parliamentary control over the Welsh schemes generally, though the control is not excessive, 1758–1763.

Further opinion as to the inexpediency of the same Parliamentary control over charity schemes as over school schemes, 1764-1766——Several ways in which the Commissioners ascertain what is the probable opinion of the House of Commons on questions dealt with by the schemes, 1767,1768.

REPORT

FROM THE

STANDING COMMITTEE

ON

LAW, AND COURTS OF JUSTICE, AND LEGAL PROCEDURE,

ON THE

CHURCH PATRONAGE BILL;

WITH THE

PROCEEDINGS OF THE COMMITTEE.

Ordered, by The House of Commons, *to be Printed,*
11 *June* 1894.

LONDON:
PRINTED FOR HER MAJESTY'S STATIONERY OFFICE,
BY EYRE AND SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, East Harding Street, Fleet Street, E.C.,
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1894.

STANDING COMMITTEE ON LAW, AND COURTS OF JUSTICE, AND LEGAL PROCEDURE.

[*Tuesday, 10th April* 1894]:—Sir John Mowbray reported from the Committee of Selection; That they had nominated the following Members to serve on the Standing Committee for the consideration of all Bills relating to Law, and Courts of Justice, and Legal Procedure, which may, by Order of the House, be committed to such Standing Committee:—

Committee nominated of—

Mr. Ambrose.
Mr. Asquith.
Mr. Atherley-Jones.
Mr. Attorney General.
Mr. Bartley.
Mr. Beach.
Mr. Bolitho.
Mr. Jacob Bright.
Mr. Brodrick.
Mr. Bryce.
Mr. John Burns.
Mr. Carson.
Sir Edward Clarke.
Mr. Courtney.
Mr. Donald Crawford.
Mr. Cremer.
Mr. Curzon.
Mr. Darling.
Sir Charles Dilke.
Mr. Dillon.
Sir William Hart Dyke.
Mr. Tatton Egerton.
Mr. John E. Ellis.
Sir Thomas Esmonde.
Mr. S. T. Evans.
Sir Walter Foster.
Mr. Henry H. Fowler.
Mr. Herbert Gardner.
Mr. Gathorne-Hardy.
Mr. Herbert Gladstone.
Mr. Haldane.
Sir Charles Hall.
Sir Edward Harland.
Mr. T. M. Healy.
Mr. Staveley Hill.
Mr. Samuel Hoare.
Mr. Henry Hobhouse.
Sir Ughtred Kay-Shuttleworth.
Mr. Kenyon.
Mr. Knox.
Mr. W. F. Lawrence.
Mr. Shaw Lefevre.
Mr. Lloyd-George.
Mr. Lockwood.
Ths Lord Advocate.
Mr. MacNeill.
Mr. Matthews.
Mr. John Morley.
Mr. Edward Morton.
Mr. Mount.
Mr. Mulholand.
Mr. Muntz.
Mr. William O'Brien.
Sir Charles Pearson.
Mr. Pickard.
Mr. Picton.
Mr. John E. Redmond.
Mr. Bryn Roberts.
Sir Albert Rollit.
Sir George Russell.
Mr. Parker Smith.
Mr. Francis Stevenson.
Mr. Storey.
Mr. Taylor.
Sir Richard Temple.
Mr. Webb.
Mr. Whitmore.
Mr. Stuart-Wortley.

[*Tuesday*, 17*th April* 1894]:—Sir John Mowbray reported from the Committee of Selection; That they had discharged the following Members from the Standing Committee on Law, and Courts of Justice, and Legal Procedure: Mr. Samuel Hoare and Sir Ughtred Kay-Shuttleworth; and had appointed in substitution: Mr. Boulnois and Mr. Billson.

[*Thursday*, 26*th April* 1894]:—Sir Henry James reported from the Chairman's Panel; That they had appointed Mr. Arthur O'Connor to act as Chairman of the Standing Committee for the consideration of Bills relating to Law, and Courts of Justice, and Legal Procedure.

[*Wednesday*, 2*nd May* 1894]:—*Ordered*, that the Church Patronage Bill be read a second time, and committed to the Standing Committee on Law, and Courts of Justice, and Legal Procedure.

[*Monday*, 7*th May* 1894]:—Sir John Mowbray reported from the Committee of Selection; That they had discharged the following Members from the Standing Committee on Law, and Courts of Justice, and Legal Procedure: Sir Edward Clarke and Mr. Boulnois; and had appointed in substitution: Sir Richard Webster and Sir Michael Hicks Beach.

Sir John Mowbray further reported from the Committee: That they had added to the Standing Committee on Law, and Courts of Justice, and Legal Procedure the following Fifteen Members, in respect of the Church Patronage Bill:—Mr. Birrell, Mr. Griffith-Boscawen, Mr. Caine, Viscount Cranborne, Mr. Dodd, Mr. Jebb, Mr. Lambert, Mr. Stanley Leighton, Mr. Paul, Mr. Perks, Sir Francis Powell, Mr. Bowen Rowlands, Mr. Talbot, Mr. Carvell Williams, and Viscount Wolmer.

[*Thursday*, 10*th May* 1894]:—Sir John Mowbray reported from the Committee of Selection; That they had discharged the following Member from the Standing Committee on Law, and Courts of Justice, and Legal Procedure: Mr. Stanley Leighton; and had appointed in substitution: Mr. Wootton Isaacson, as one of the fifteen Members added in respect of the Church Patronage Bill.

[*Wednesday*, 23*rd May* 1894]:—*Ordered*, That all Standing Committees have leave to print and circulate with the Votes the Minutes of their Proceedings and any amended Clauses of Bills committed to them—(Mr. *Arthur O'Connor*).

[*Friday*, 25*th May* 1894]:—Sir Henry James reported from the Chairmen's Panel; That they had appointed Mr. Stansfeld to act as Chairman of the Standing Committee for the consideration of Bills relating to Law, and Courts of Justice, and Legal Procedure, in the place of Mr. Arthur O'Connor.

[*Friday*, 25*th May* 1894]:—Sir John Mowbray reported from the Committee of Selection; That they had discharged the following Members from the Standing Committee on Law, and Courts of Justice, and Legal Procedure: Mr. Bryce and Mr. Attorney General; and had appointed in substitution: Sir John Rigby and Mr. Hunter.

[*Friday*, 1*st June* 1894]:—Sir John Mowbray reported from the Committee of Selection; That they had discharged the following Member from the Standing Committee on Law, and Courts of Justice, and Legal Procedure: Sir Walter Foster; and had appointed in substitution: Mr. Seale-Hayne.

REPORT.

THE STANDING COMMITTEE on LAW, and COURTS OF JUSTICE, and LEGAL PROCEDURE, to whom the CHURCH PATRONAGE BILL was referred;——HAVE gone through the same, and made Amendments thereunto.

11 *June* 1894.

STANDING COMMITTEE ON LAW, AND COURTS OF JUSTICE, AND LEGAL PROCEDURE.

Monday, 4th June 1894.

MEMBERS PRESENT:

Mr. STANSFELD in the Chair.

Mr. Bartley.	Mr. Hunter.
Sir Michael Hicks Beach.	Mr. Wootton Isaacson
Mr. Billson.	Mr. Lawrence.
Mr. Birrell.	Mr. Edward Morton.
Mr. Griffith-Boscawen.	Mr. Mulholland.
Mr. Jacob Bright.	Mr. Paul.
Mr. John Burns.	Sir Charles Pearson.
Mr. Courtney.	Mr. Perks.
Viscount Cranborne.	Sir Francis Powell.
Mr. Cremer.	Mr. Talbot.
Mr. Dodd.	Sir Richard Temple.
Mr. Seale Hayne.	Sir Richard Webster.
Mr. Staveley Hill.	Mr. Carvell Williams.

CHURCH PATRONAGE BILL.

Clause 1.

Motion made and Question: That the consideration of Clause 1 be postponed—(Mr. *Dodd*) put, and *negatived.*

Amendment proposed in page 1, line 7, after the word "sale" to leave out the words "by public auction"—(Mr. *Carvell Williams*).—Question put, That the words proposed to be left out stand part of the Clause.—The Committee divided:

Ayes, 12.	Noes, 13.
Mr. Bartley.	Mr. Billson.
Sir Michael Hicks Beach.	Mr. Birrell.
Mr. Griffith-Boscawen.	Mr. Jacob Bright.
Mr. Courtney.	Mr. John Burns.
Viscount Cranborne.	Mr. Cremer.
Mr. Wootton Isaacson.	Mr. Dodd.
Mr. Mulholland.	Mr. Seale-Hayne.
Sir Charles Pearson.	Mr. Staveley Hill.
Sir Francis Powell.	Mr. Hunter.
Mr. Talbot.	Mr. Edward Morton.
Sir Richard Temple.	Mr. Paul.
Sir Richard Webster.	Mr. Perks.
	Mr. Carvell Williams.

Motion made and Question, That the Committee do now adjourn—(Sir *Michael Hicks Beach*)—put, and *agreed to.*

[Adjourned till Monday next, at Twelve of the clock.

Monday 11*th June* 1894.

MEMBERS PRESENT:

Mr. STANSFELD in the Chair.

Mr. Bartley.
Sir Michael Hicks Beach.
Mr. Billson.
Mr. Birrell.
Mr. Griffith-Boscawen.
Mr. Jacob Bright.
Mr. Brodrick.
Mr. John Burns.
Mr. Caine.
Mr. Carson.
Mr. Courtney.
Viscount Cranborne.
Mr. Donald Crawford.
Mr. Curzon.
Mr. Darling.
Mr. Dodd.
Sir W. Hart Dyke.
Mr. Samuel Evans.
Sir Charles Hall.
Sir Edward Harland.
Mr. Seale-Hayne.
Mr. Staveley Hill.
Mr. Wootton Isaacson.
Mr. Jebb.
Mr. Lambert.
Mr. Lawrence.
Mr. Lloyd-George.
Mr. Matthews.
Mr. Edward Morton.
Mr. Mount.
Mr. Muntz.
Mr. Paul.
Sir Charles Pearson.
Mr. Perks.
Sir Francis Powell.
Sir George Russell.
Mr. J. Parker Smith.
Mr. Francis Stevenson.
Mr. Talbot.
Sir Richard Temple.
Mr. Webb.
Sir Richard Webster.
Mr. Whitmore.
Mr. Carvell Williams.
Viscount Wolmer.

CHURCH PATRONAGE BILL.

Clause 1, further considered.

Another Amendment proposed, in page 1, line 8, after the word "patronage" to insert the words "being less than the whole of such right possessed by the vendor"—(Viscount *Cranborne*)—Question put, That those words be there inserted.—The Committee divided:

Ayes, 25.	Noes, 19.
Mr. Bartley.	Mr. Billson.
Sir Michael Hicks Beach.	Mr. Birrell.
Mr. Griffith-Boscawen.	Mr. Jacob Bright.
Mr. Brodrick.	Mr. J. Burns.
Mr. Carson.	Mr. Caine.
Viscount Cranborne.	Mr. Courtney.
Mr. Curzon.	Mr. Donald Crawford.
Mr. Darling.	Mr. Dodd.
Sir W. Hart Dyke.	Mr. Samuel Evans.
Sir Charles Hall.	Mr. Seale-Hayne.
Sir Edward Harland.	Mr. Staveley Hill.
Mr. Wootton Isaacson.	Mr. Lambert.
Mr. Jebb.	Mr. Lloyd-George.
Mr. Lawrence.	Mr. Edward Morton.
Mr. Matthews.	Mr. Paul.
Mr. Mount.	Mr. Perks.
Mr. Muntz.	Mr. Francis Stevenson.
Sir Charles Pearson.	Mr. Webb
Sir Francis Powell.	Mr. Carvell Williams.
Sir George Russell.	
Mr. J. Parker Smith.	
Mr. Talbot.	
Sir Richard Webster.	
Mr. Whitmore.	
Viscount Wolmer.	

Another Amendment proposed, in page 1, line 11, to leave out Sub-section (2)—(Sir *Richard Webster*).—Question, That the words proposed to be left out stand part of the Clause,—put, and *negatived*.

Another Amendment proposed, in page 1, line 18, to leave out from the words "In the event" to the word "for" in line 20—(Mr. *Dodd*).—Question, That the words proposed to be left out stand part of the Clause,—put, and *agreed to*.

Another Amendment proposed, in page 1, line 20, to leave out the words "two years" and insert the words "one year"—(Mr. *Griffith-Boscawen*).—Question put, That the words "two years" stand part of the Clause. The Committee divided:

Ayes, 22.	Noes, 17.
Mr. Bartley.	Sir Michael Hicks Beach.
Mr. Billson.	Mr. Griffiths Boscawen.
Mr. Birrell.	Viscount Cranborne.
Mr. Jacob Bright.	Mr. Curzon.
Mr. Carson.	Mr. Dodd.
Mr. Courtney.	Sir William Hart Dyke.
Mr. Donald Crawford.	Sir Charles Hall.
Mr. Darling.	Sir Edward Harland.
Mr. Samuel Evans.	Mr. Jebb.
Mr. Seale-Hayne.	Mr. Lawrence.
Mr. Staveley Hill.	Mr. Matthews.
Mr. Wootton Isaacson.	Mr. Mount.
Mr. Lambert.	Sir Charles Pearson.
Mr. Edward Morton.	Sir Francis Powell.
Mr. Muntz.	Sir George Russell.
Mr. Paul.	Mr. Talbot.
Mr. Perks.	Sir Richard Webster.
Mr. J. Parker Smith.	
Mr. Francis Stevenson.	
Mr. Webb.	
Mr. Carvell Williams.	
Viscount Wolmer.	

Another Amendment proposed, in page 2, line 1, to leave out from the words "by the bishop" to the end of the sub-section, and insert the words, "in the case of any benefice, situated in London by the vestry within whose jurisdiction the benefice is situated, in the case of any benefice situated in a municipal borough by the city or town council of such borough, and in the case of any benefice situated in a rural parish by the parish council, or where there is no parish council by the parish meeting"—(Mr. *Paul*).—Question put, That the words proposed to be left out stand part of the Clause.—The Committee divided:

Ayes, 29.	Noes, 7.
Mr. Bartley.	Mr. Jacob Bright.
Sir Michael Hicks Beach.	Mr. Seale-Hayne.
Mr. Billson.	Mr. Lambert.
Mr. Birrell.	Mr. Edward Morton.
Mr. Griffith Boscawen.	Mr. Paul.
Mr. Brodrick.	Mr. Perks.
Mr. Carson.	Mr. Carvell Williams.
Viscount Cranborne.	
Mr. Curzon.	
Mr. Darling.	
Mr. Dodd.	
Sir W. Hart Dyke.	
Sir Charles Hall.	
Sir Edward Harland.	
Mr. Staveley Hill.	
Mr. Wootton Isaacson.	
Mr. Jebb.	
Mr. Lawrence.	
Mr. Matthews.	
Mr. Mount.	
Mr. Muntz.	
Sir Charles Pearson.	
Sir Francis Powell.	
Sir George Russell.	
Mr. J. Parker Smith.	
Mr. Francis Stevenson.	
Mr. Talbot.	
Sir Richard Webster.	
Viscount Wolmer.	

Clause

Clause, as amended, *agreed to.*

Clause 2.

Amendment proposed, in page 2, line 7, after the word "transmission," to insert the words, "or under an appointment of a trustee"—(Sir *Richard Webster*).—Question, That those words be there inserted,"—put, and *agreed to.*

Another Amendment proposed, in page 2, line 9, after the word "transmission," to insert the words, "or appointment of a trustee"—(Sir *Richard Webster*).—Question, That those words be there inserted,—put, and *agreed to.*

Another Amendment proposed, in page 2, line 10, at the end of the Clause after the word "patronage," to add the words, "Provided that no fee exceeding one shilling shall be charged or payable for or in respect of such registration"—(Mr. *Dodd*).—Question proposed, That those words be there added.

Amendment, by leave, *withdrawn.*

Clause, as amended, *agreed to.*

Clause 3, *agreed to.*

Clause 4.

Amendment proposed, in page 2, line 16, to leave out the words "or transmitted"—(Sir *Richard Webster*).—Question, That the words "or transmitted" stand part of the Clause,—put, and *negatived.*

Clause, as amended, *agreed to.*

Clause 5, *agreed to.*

Clause 6, amended, and *agreed to.*

Clause 7.

Amendment proposed, in page 3, line 31, after the word "conduct," to insert the words "or by reason of any other circumstance not being a question of doctrine or ritual"—(*Viscount Cranborne*).—Question put, That those words be there inserted.—The Committee divided:

Ayes, 15.	Noes, 14.
Mr. Billson.	Mr. Bartley.
Mr. Birrell.	Sir Michael Hicks Beach.
Mr. Griffith-Boscawen.	Mr. Carson.
Mr. Brodrick.	Mr. Dodd.
Viscount Cranborne.	Mr. Staveley Hill.
Mr. Donald Crawford.	Mr. Jebb.
Sir Edward Harland.	Mr. Lawrence.
Mr. Wootton Isaacson.	Mr. Mount.
Mr. Matthews.	Mr. Muntz.
Mr. Paul.	Mr. Perks.
Sir Charles Pearson.	Sir Francis Powell.
Mr. Talbot.	Mr. J. Parker Smith.
Sir Richard Temple.	Mr. Francis Stevenson.
Mr. Carvell Williams.	Sir Richard Webster.
Viscount Wolmer.	

Another Amendment proposed, at the end of the last Amendment, after the word "ritual" to insert the words "which may be represented to him by any parishioner."—(Sir *Michael Hicks Beach*).—Question, That those words be there inserted,—put, and *agreed to.*

Another Amendment proposed, in page 3, line 32, after the word "opinion," to insert the words "after having given to such presentee a reasonable opportunity of being heard"—(Mr. *Dodd*).—Question, That those words be there inserted,—put, and *agreed to.*

Clause, as amended, *agreed to.*

Clause 8, *agreed to.*

Clause 9, amended, and *agreed to.*

Clause 10, *agreed to.*

Clause 11.

Amendment proposed, in page 5, line 25, to leave out from the word "except" to the end of the Clause—(Mr. *Paul*).—Question, That the words proposed to be left out stand part of the Clause,—put, and *agreed to.*

Clause *agreed to.*

Clause 12.

Question put,—That the Clause stand part of the Bill.—The Committee divided:

Ayes, 18.	Noes, 6.
Mr. Bartley.	Mr. Billson.
Sir Michael Hicks Beach.	Mr. Wootton Isaacson.
Mr. Griffith-Boscawen.	Mr. Paul.
Mr. Brodrick.	Mr. Perks.
Mr. Carson.	Mr. Francis Stevenson.
Viscount Cranborne.	Mr. Carvell Williams.
Mr. Dodd.	
Sir W. Hart Dyke.	
Sir Edward Harland.	
Mr. Jebb.	
Mr. Mount.	
Sir Charles Pearson.	
Sir Francis Powell.	
Mr. J. Parker Smith.	
Mr. Talbot.	
Sir Richard Temple.	
Sir Richard Webster.	
Viscount Wolmer.	

Clauses 13—15, *agreed to.*

Clause 16.

Amendment proposed, in page 6, line 31, to leave out sub-section 2—(Mr. *Dodd*).—Question, That the words "Nothing in this Act" stand part of the Clause,—put, and *negatived.*

Clause, as amended, *agreed to.*

Clause 17.

Amendment proposed, in page 8, line 24, after the word "person" to insert the words, "but does not include the appointment of a new trustee of a right of patronage subject, at the date of the passing of this Act, to an express trust, or to any assurance for giving effect to any such appointment"—(Sir *Richard Webster*).—Question, That those words be there inserted,—put, and *agreed to.*

Clause, as amended, *agreed to.*

Clause 18, *agreed to.*

Ordered, to report the Bill as amended to the House.

REPORT

FROM THE

STANDING COMMITTEE

ON

LAW, AND COURTS OF JUSTICE, AND LEGAL PROCEDURE,

ON THE

CHURCH PATRONAGE BILL;

WITH THE

PROCEEDINGS OF THE COMMITTEE.

Ordered, by The House of Commons, *to be Printed*,
11 *June* 1894.

[*Price* 1½*d.*]

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REPORT

FROM THE

SELECT COMMITTEE

ON

COMMONS;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

AND

MINUTES OF EVIDENCE.

Ordered, by The House of Commons, *to be Printed,*
7 *May* 1894.

LONDON:
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BY EYRE AND SPOTTISWOODE,
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90, West Nile Street, Glasgow; or
HODGES, FIGGIS, & Co., Limited, 104, Grafton Street, Dublin.

106.

COMMONS.

Ordered,—[*Tuesday*, 17*th April* 1894]:—THAT a Select Committee be appointed to consider every Report made by the Board of Agriculture, certifying the expediency of any Provisional Order for the enclosure or regulation of a Common, and presented to the House during the last or present Sessions, before a Bill be brought in for the confirmation of such Order.

THAT it be an Instruction to the Committee that they have power, in respect of each such Provisional Order, to inquire and report to the House whether the same should be confirmed by Parliament; and, if so, whether with or without modification, and, in the event of their being of opinion that the same should not be confirmed, except subject to modifications, to report such modifications accordingly with a view to such Provisional Order being remitted to the Board of Agriculture.

THAT the Committee do consist of Twelve Members, Seven to be nominated by the House, and Five by the Committee of Selection.

Committee nominated of,—

Dr. Ambrose.
Viscount Curzon.
Sir Arthur Hayter.
Mr. Seale-Hayne.
Mr. Jeffreys.
Mr. Thomas Robinson.
Mr. Taylor.

Mr. Arch.
Mr. H. L. W. Lawson.
Mr. Roche.
Mr. Wroughton.
Sir Mark Stewart.

Added by the Committee of Selection. [*Friday*, 20*th April* 1894.]

THAT the Committee have power to send for Persons, Papers, and Records.

THAT Five be the Quorum of the Committee.

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MINUTES OF EVIDENCE - - - - - - - - - - - - p. 1

REPORT.

THE SELECT COMMITTEE appointed to consider every REPORT made by the BOARD OF AGRICULTURE, certifying the expediency of any PROVISIONAL ORDER for the INCLOSURE or REGULATION of a COMMON, and presented to the House during the last or present Sessions, before a Bill be brought in for the confirmation of such Order; and who were instructed that they have power in respect of each such Provisional Order to inquire and report to the House whether the same should be confirmed by Parliament, and, if so, whether with or without modification; and, in the event of their being of opinion that the same should not be confirmed, except subject to modifications, to report such modifications accordingly, with a view to such Provisional Order being remitted to the Board of Agriculture;——HAVE considered the REPORT of the BOARD OF AGRICULTURE certifying the expediency of a PROVISIONAL ORDER for—

THE REGULATION OF LUTON COMMONS,

and are of opinion,—

That the same ought to be confirmed by PARLIAMENT without modification.

7 May 1894.

PROCEEDINGS OF THE COMMITTEE.

Friday, 27th April 1894.

MEMBERS PRESENT:

Sir Arthur Hayter.	Mr. Thomas Robinson.
Mr. Wroughton.	Mr. H. L. W. Lawson.
Mr. Seale-Hayne.	Mr. Jeffreys.

Sir ARTHUR HAYTER was called to the Chair.

[Adjourned till Monday, 7th May, at Two o'clock.

Monday, 7th May 1894.

MEMBERS PRESENT:

Sir ARTHUR HAYTER in the Chair.

Mr. Arch.	Viscount Curzon.
Mr. H. L. W. Lawson.	Mr. Taylor.
Mr. Thomas Robinson.	Sir Mark Stewart.

Special Report as to the Regulation of "Luton Commons" was read.

In support of the Provisional Order Mr. *John Robert Moore*, Mr. *George Pemberton Leach*, Mr. *George Sell*, and Mr. *Asher John Hucklesby*, were examined.

Motion made, and Question, "That the Provisional Order ought to be confirmed by Parliament without modification,"—put, and *agreed to*.

Ordered, To Report.

MINUTES OF EVIDENCE.

LIST OF WITNESSES.

Monday, 7th May 1894.

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Mr. John Robert Moore	1
Mr. George Pemberton Leach	2
Mr. George Sell	3
Mr. Asher John Hucklesby	3

MINUTES OF EVIDENCE.

Monday, 7th May 1894.

MEMBERS PRESENT:

Mr. Arch.
Viscount Curzon.
Sir Arthur Hayter.
Mr. H. L. W. Lawson.
Mr. Thomas Robinson.
Sir Mark Stewart.
Mr. Taylor.

SIR ARTHUR HAYTER, BART., IN THE CHAIR.

LUTON COMMONS.

Mr. JOHN ROBERT MOORE, called in; and Examined.

Chairman.

1. YOU represent the Board of Agriculture in this inquiry, do you not?—I do.

2. The question the Committee have to decide is whether the Provisional Order for the regulation of certain commons in the Borough of Luton, known as "The Moor," "Pope's Meadow," and "Bell Close," should be confirmed by Parliament, is it not?—Quite so.

3. Would you tell us the acreage of the commons?—There are three separate tracts, "The Moor" contains 5 acres 21 perches; "Pope's Meadow" 13 acres 3 roods 18 perches; and "Bell Close" 13 acres 3 roods 19 perches; together 32 acres 3 roods 18 perches.

4. And what is the population of Luton?—The population of Luton is 30,006 according to the last census.

5. Has the usual local inquiry by an Assistant Commissioner been held after public notice given?—Yes.

6. And were the public meetings, morning and evening, held?—Public meetings were held both morning and evening.

7. Do you speak to the assent of the commoners?—The Board have received the assents in writing of more than two-thirds in value of the persons interested as commoners.

8. The commoners mainly are freeholders of the borough, are they not?—It is believed that only freeholders of the borough of Luton are entitled to the common rights. Perhaps I might formally put in a plan which shows the tracts and their position in relation to the houses (*The plan was handed in.*) These are the three tracts which are tinted.

Mr. *Thomas Robinson.*

9. Is that cultivated land?—It is all in grass, but a great deal of it is worn away by the townspeople recreating themselves upon it.

Mr. *Arch.*

10. What do they intend doing with the common?—What do they intend to do with it?

11. Yes?—To place the management of it in the Corporation of the borough of Luton, to preserve as open spaces for the recreation of the inhabitants.

12. And I suppose the inhabitants will, will they not, have the chance of keeping that recreation ground in good repair and order?—The Corporation will do that.

13. The Corporation will do that; and will they charge for it?—They will pay for it out of the borough rates.

Mr. *Thomas Robinson.*

14. Is all the land to be laid down as recreation grounds?—It is all to be preserved as open spaces for recreation.

15. It is not attached together in one piece?—There are three separate pieces.

16. And the whole of it is to be kept for recreation purposes?—Yes, that is the intention.

Mr. *H. L. W. Lawson.*

17. What rights have the commoners?—All the freeholders of the borough are supposed to be entitled to turn out stotk upon these small portions

Mr. *H. L. W. Lawson*—continued.

of land, but of course all the freeholders could not possibly exercise those rights. The practice has been for the committee who have the management to take a small fee from those commoners who wished to exercise the right and to devote the proceeds to the expenses of management.

18. And there has been no protest on the part of the minority?—None whatever.

Mr. George Pemberton Leach, called in; and Examined.

Chairman.

19. You are the Assistant Commissioner who, by the direction of the Board of Agriculture, held the local inquiry and public meetings, are you not?—Yes.

20. Will you tell us what took place at the inquiry?—When I opened the meeting I explained generally the provisions of the Commons Act of 1876, especially having regard to the fact that under the preamble to that Act the Board of Agriculture were not to make any order in relation to a common unless they were satisfied that it would be for the benefit of the neighbourhood. I then explained the other provisions of the Act, and went through a list of questions which had been sent down by the Board of Agriculture, and had been answered by the applicants; and I received such further information as would enable me to make a report to the Board upon the general aspect of the case. I also inspected the Commons and the neighbourhood, accompanied by the Mayor of Luton and several other persons who were interested in the matter. I also held a second meeting at seven o'clock on the following day in the evening.

21. The result was that you reported to the Board of Agriculture that the inhabitants of Luton were desirous that the commons should be handed over to the Corporation, was it not so?—Yes. Of those present at the meetings, the whole feeling was decidedly in favour of the proposed scheme; there was not the slightest opposition in any way.

Mr. *Arch.*

22. At neither morning nor evening meeting?—Neither at the morning nor the evening meeting.

Chairman.

23. The town clerk of Luton, I suppose, speaks to the bye-laws as to keeping the open space in order?—The bye-laws have not been framed yet. That would be a matter for the subsequent proceedings in the regulation; and provision would be made for such bye-laws in the award of the valuer.

24. But the Corporation would have the right of framing bye-laws, would not they, for the preservation of the common?—Yes.

25. And part of it is to be preserved for recreation, is it not?—A right of recreation for the inhabitants is to be reserved over the whole, but the existing common rights which are vested in the freemen and burgesses of Luton will not be interfered with.

26. On the whole, you were decidedly of opinion that it was for the benefit of the town that the Provisional Order should be sanctioned?—I am quite sure it would be a great benefit to the town. Perhaps there is one thing I might say in reference to a question that was asked just now. Up to the present time the lands have been vested in trustees who have let the common rights for a small payment. During the last 20 years, out of all the inhabitants of Luton, on an average, under 40 have applied to exercise their rights of common. Applications to exercise the right are never refused, so long as the beast which is proposed to be turned on the common has a clean bill of health. The accounts of the trustees for the preceding year were produced to me. They showed receipts amounting to 62*l.* odd, expenses amounting to 63*l.* odd, and a balance due to the bank of some 47*l.*; so that at the present time the trustees have not enough money to keep up the place properly.

27. The future expenses are to be paid out of the borough rate, are they not?—It is proposed now that the expense of maintaining and keeping these lands in good order shall be paid out of the borough rate.

Mr. *Arch.*

28. Do the Corporation intend to enclose these pieces of common?—They are at present enclosed; they are practically separate grass-fields.

29. And do the commoners, who have the common right, turn their cattle on now?—Yes.

30. And will they be compelled to take their cattle off providing this scheme is carried?—No; the intention is that they should still be allowed to turn them out.

31. And will they be charged a fee for that?—Yes.

32. And the Corporation will take the money, I suppose?—The Corporation, I presume, will take the money.

33. It virtually will be taken from the hands of the trustees and placed in the hands of the Corporation, an elected body?—Yes.

Chairman.

34. They pay a fee now, do not they?—They pay a fee of 30*s.* a year, which gives them the right to turn out two beasts or two horses.

Mr. *Arch.*

35. With those beasts on this pasture land, will the inhabitants who like to play cricket or football, or anything of that sort, be allowed to go on and play?—It is the intention that the Corporation should take over the lands really for the purpose of making them public recreation grounds, and probably adding them to a people's park (which I think is probably shown on the plan) which adjoins a good deal of the land.

36. For the benefit of the working-classes and the inhabitants of the town?—Yes, the inhabitants generally.

Mr. GEORGE SELL, called in; and Examined.

Chairman.

37. YOU have been secretary since 1867 to the trustees and committee of the Luton Moors or Commons?—I have.

38. Would you explain what their condition and present user is, and what difficulties the committee have had in managing them?—During the period I have been the secretary of the committee, we have always been in a financial difficulty. The freeholders of the parish of Luton, of which the borough forms the greater part, have had the right of turning on two head of cattle per season, the season extending from the 12th May to the 12th November. As a rule, the funds have always fallen short of the outgoings, and the result has been this: that the committee have not had sufficient funds to keep the lands in proper order, and the result has been that two or three meetings were held, and it was decided to ask the corporation to take the

Chairman—continued.

management of these commons into their own hands in order that the parties entitled to turn the cattle on might have better pasturage, and for the general use and recreation of the inhabitants of the borough.

39. In fact, the proposal came from the committee to the corporation? — It did, sir, in the first instance, and I may say that two public meetings were held on the motion of the trustees and committee before we approached the corporation, and there was not the slightest opposition at those two public meetings to the proposition that application should be made to the corporation to take the moors over into their own hands.

40. Then may we fairly assume that the townspeople of Luton generally are in favour of taking them over?—Oh, certainly.

Mr. ASHER JOHN HUCKLESBY, called in; and Examined.

Chairman.

41. YOU are mayor of Luton?—I am.

42. Are you well acquainted with these commons and their management and the wishes of the inhabitants with regard to them?—I am; perfectly so. The town clerk has stated that the motion was first made by the inhabitants generally. Seeing that complaints were constantly made that the best use was not made of these public lands for the benefit of the very populous neighbourhood near which they are situated, a large meeting was held at which a resolution was unanimously passed. The motion first came from the committee. For the last two years I have been the chairman of that committee. The corporation was asked to take such steps as would give them the control and power over these lands in order that they might be made more available for the better recreation of the people, and also for the better use of the freeholders, inasmuch as in their present condition the funds that come into the hands of the committee scarcely pay the wages of the herdsman who has to see after the cattle; consequently there are not any funds for proper regulation; therefore the best use is not made of these lands, the people run over them, and the grass naturally is spoiled; whereas when they are under the control of the corporation that matter will be obviated, and the freeholders, whose right it is to turn on their cattle, will get certainly better pasturage in every possible way, and the great body of the people will have recreation grounds. It is desired that they should be made (as they are suitable for) proper recreation grounds for the people, but seeing that the committee have had no means of making them into such grounds, they have naturally made the best use of them they could with the funds at their disposal and command.

43. The corporation will undertake the manuring, fencing, and draining?—Yes; they

Chairman—continued.

will, of course, undertake all outgoings, and will naturally make the grounds more suitable for the pasturage for the freeholders, giving them their right in every way; and I should like further to say that by a judicious exchange made when the extension of the Midland line was made, we have now for the freeholders more than double the extent of the pasturage they then had. The Midland Company took a portion of the public lands, and with the money they paid a larger area was purchased, so that the freeholders have considerably more area over which their cattle may pasture than they had formerly.

44. Do you reserve the right to the corporation of making bye-laws for preserving order?—That is one of the great purposes we have in our minds.

45. And you took up the matter on the part of the corporation because there was a generally expressed wish on the part of the inhabitants that the corporation should take it up?—That is so. It was not only in the minds of the committee, but in the minds of the people generally, that this would be greatly to the advantage of all the people whose interests were concerned in these lands.

Mr. *Arch.*

46. Can you inform the Committee how the old trustees were elected and by whom?—A meeting has always been called by printed placard and by the public crier on the 1st May at 11 o'clock; that meeting has always been held in a public building and all freeholders have been invited, when the committee has been elected. The secretary and all the officers have been elected annually, but, as I say, the treasurer has always been money out of pocket; it has never been an office that has been very greatly sought after.

Mr. *Arch*—continued.

47. Do not you think it would have been more convenient to the artizans and working men if the meeting had been called at seven in the evening instead of at 11 in the day?—It was fixed by the award that was made that it should be so, that it should be called for the first day of May in each year.

48. At 11 o'clock?—At 11 o'clock; and ever since then it has been called. I believe we have the minute book in the room.

49. Then at that meeting the trustees were elected?—It is the committee.

50. It is as to the trustees that I want you to answer me. I want to know how and by whom they were elected?—There has been no trustee elected, I should think, for the last 30 years.

51. I should think that during 30 years those that were elected first are gone; have not they died?—The town clerk, perhaps, may be better able to explain the mode of the election of the trustees than I am at the moment.

52. What I wanted to know was how in the original these trustees were elected, and by whom, and whether this change would very much improve the freedom of the people in managing their own affairs, that is to say, if this scheme is adopted?—Most certainly; and I may say that the whole of the trustees are in favour of the transfer. They were present when the Assistant Commissioner held his inquiry, and every one of them was in favour most certainly of this transfer.

53. Do you suppose the corporation will take and cut some nice broad pathways across this ground for the people to walk on, the same as they do in the London parks?—Well, of this you may be sure, they will do all that in their opinion will conduce to making these lands better for recreative purposes, and also for the pasture of those who have the right of pasturing cattle. When I say that out of a number of 1,500 freeholders there are only 36 who have availed themselves of their privilege, you will see that there is not any desire in the minds of the corporation to take away any privilege that the freeholders may have had. Thirty-six people was the number last year who exercised the privilege of turning on one or more head of cattle.

Mr. *Thomas Robinson.*

54. Are all these different pieces of land within the borough of Luton?—Yes.

55. There is no temptation, I suppose, to use it for building purposes?—Certainly not; oh, none whatever.

56. It will all be kept for the recreation of the people, and the pasturage of those who are entitled to use it in that way?—Most certainly; the one idea in the mind of the corporation is that it may be made more available in every way for such purposes.

57. It seems to me that it would be very much better if by exchange you could get the whole three pieces into one; it could be made much more use of, could it not?—I am afraid that would not be possible. I may say that in 1867,

Mr. *Thomas Robinson*—continued.

when the Midland Railway's extension took place, it cut the public lands entirely in two; went right through them; and the committee very judiciously and very wisely changed that triangular piece on one side of the line for two of those very portions now in question; they obtained four times the extent of area that they gave for them, in consequence of the line coming right through. You will notice on the map there is one small triangular piece; that is the only piece of the original moor that is left; "Pope's Meadow" and "Bell Close" are two pieces that we exchanged. I may say that the other portion has been cut up for building land by the gentleman who gave these two meadows in question, exchanging them for that portion.

Mr. *Arch.*

58. But will the people have the power to prevent the corporation selling any of this land?—Certainly.

Chairman.

59. You have no right, by this Provisional Order, to sell any of it, have you?—No; there is no possibility of selling it.

60. The Order is only for giving powers to regulate it as commons, is it not?—That is so.

Mr. *H. L. W. Lawson.*

61. Under the new scheme will the right of pasturage be confined to freeholders, or will it be open to all the inhabitants of the borough on payment?—Well, of course, the freeholders having had that right from time to time of the original award, we do not apprehend that that right would be extended to any but freeholders in the borough; that is for the pasturage.

62. Now, the commons are regulated, of course, and there arises a new set of circumstances?—Quite so.

63. It would be within your power, I suppose, just as it would be within your power to open it for recreation, also to use it for any other public purpose?—Anything the public felt would be for their advantage, I take it, the corporation would take into their consideration, and if it was seen that these lands could be used in that direction they would naturally take the matter up, and carry out such a project if it was the desire of the inhabitants and freeholders generally, those being the people who would have to bear the expense.

64. But the expense of laying out the ground only, and maintaining it, will fall on the rates, will it not?—Just so, on the rates generally.

65. On the rates generally, and the freeholders have in the past only received the advantage subject to payment, therefore it has not been a very valuable one?—Certainly not. You have heard that 1*l.* 10*s.* a head is paid now.

66. Yes, quite so; we have heard that. Then would it not be advisable to give the opportunity to all inhabitants, whether they are freeholders or not?—If there was the least idea that there was any such desire, if that was broached, the corporation would take it into their consideration, and

Mr. *H. L. W. Lawson*—continued.

and as the whole of the ratepayers contribute to the cost, I have no doubt that that, as an act of justice, would be conceded to them, they would have the right.

67. Have they power under the Provisional Order?—I am informed that they have no power to alter the rights.

Mr. *H. L. W. Lawson*—continued.

68. But they could purchase any rights, I suppose, that exist?—No, not under the Order.

The Committee deliberated.

The Chairman was directed to report that the Provisional Order ought to be confirmed by Parliament without modification.

REPORT

FROM THE

SELECT COMMITTEE

ON

COMMONS;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

AND

MINUTES OF EVIDENCE.

Ordered, by The House of Commons, *to be Printed,*
7 *May* 1894.

[*Price* 1 *d.*]

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REPORT

FROM THE

SELECT COMMITTEE

ON THE

CROWN LANDS BILL;

WITH THE

PROCEEDINGS OF THE COMMITTEE.

Ordered, by The House of Commons, *to be Printed,*
1 *August* 1894.

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252.

Crown Lands Bill.

Ordered,—[*Tuesday*, 10*th April* 1894]:—That the Crown Lands Bill be read a second time, and committed to a Select Committee of Seven Members, Four to be nominated by the House, and Three by the Committee of Selection.

That all Petitions against the Bill presented Three clear days before the meeting of the Committee be referred to the Committee; that the Petitioners praying to be heard by themselves, their Counsel, or Agents, be heard against the Bill, and Counsel heard in support of the Bill.

That the Committee have power to send for Persons, Papers, and Records.

That Three be the Quorum of the Committee.

Ordered,—[*Monday*, 30*th April* 1894]:—That the Petition of the Verderers of the New Forest (against) be referred to the Select Committee on the Bill.

Ordered,—[*Friday*, 22*nd June* 1894]:—That the Petition of the Commons Preservation Society (against) be referred to the Select Committee on the Bill.

Ordered,—[*Tuesday*, 17*th July* 1894]:—That Sir John Hibbert, Mr. Jeffreys, Mr. Scott Montagu, and Captain Sinclair be Members of the Committee, with Three Members to be added by the Committee of Selection.

[*Friday*, 20*th July* 1894]:—Added by the Committee of Selection: Sir John Gorst, Mr. Samuel Smith, and Mr. Vesey Knox.

[*Thursday*, 26*th July* 1894]:—Committee of Selection: Sir John Gorst is discharged from the Select Committee on the Crown Lands Bill, and Mr. Jackson is added to the Committee.

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PROCEEDINGS OF THE COMMITTEE - - - - - - - - p. iv

REPORT.

THE SELECT COMMITTEE to whom the CROWN LANDS BILL was referred have considered the said Bill, and taken Evidence thereon; and have gone through the Bill, and made Amendments thereunto.

1 *August* 1894.

PROCEEDINGS OF THE COMMITTEE.

Friday, 27*th July* 1894.

MEMBERS PRESENT:

Sir John Hibbert. | Captain Sinclair.
Mr. Jeffreys.

Sir JOHN HIBBERT was called to the Chair.

The Committee deliberated, and appointed Wednesday, 1st August, for the consideration of the Bill.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 1*st August* 1894.

MEMBERS PRESENT:

Sir JOHN HIBBERT in the Chair.

Captain Sinclair. | Mr. Samuel Smith.
Mr. Scott Montagu. | Mr. Jeffreys.

CROWN LANDS BILL.

Agents :—*Wyatt & Co.*

Petitions against the Bill read.

1. Verderers of the New Forest.

No appearance.

2. Commons Preservation Society.

Agents :—Messrs. *Horne & Birkett.*

Sir *Richard Wyatt* was heard in support of the Bill, and called evidence.

Sir *Nigel Kingscote* was sworn, and examined.

Preamble *agreed to.*

Clause 1, amended, and *agreed to.*

Clause 2, *agreed to.*

Clause 3, amended, and *agreed to.*

Clause 4, *agreed to.*

Clause 5, amended, and *agreed to.*

Clauses 6—10, *agreed to.*

Clause 11, *disagreed to.*

Clauses 12—14, *agreed to.*

New Clause (Extension of 15 & 16 Vict., c. 62, s. 2, as to the release from covenants)—(The *Chairman*),—brought up, and read the first and second time, and *added.*

New Clause (Explanation of Powers of Commissioners as to water rights)—(The *Chairman*),—brought up, and read the first and second time, and *added.*

Schedule, *agreed to.*

Ordered, To Report the Bill, as amended, to the House.

REPORT

FROM THE

SELECT COMMITTEE

ON THE

CROWN LANDS BILL;

WITH THE

PROCEEDINGS OF THE COMMITTEE.

Ordered, by The House of Commons, *to be Printed,*
1 *August* 1894.

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REPORT

FROM THE

SELECT COMMITTEE

ON

FEUS AND BUILDING LEASES (SCOTLAND);

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND APPENDIX.

Ordered, by The House of Commons, *to be Printed*,
26 *July* 1894.

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90, WEST NILE STREET, GLASGOW; or
HODGES, FIGGIS, & Co., LIMITED, 104, GRAFTON STREET, DUBLIN

238.

Feus and Building Leases (Scotland).

Ordered,—[*Wednesday*, 11*th April* 1894]:—That the Select Committee be re-appointed to inquire into the working of the Law of Scotland relating to Feus and Leases for Building, including the casualties payable to the superior, and the conditions frequently inserted in Feu Charters and Leases for Building, and to consider whether any, and, if any, what amendment of the Law is required.

Committee nominated—of—

Mr. Baird.
Mr. J. B. Balfour.
Mr. Donald Crawford.
Mr. Dalziel.
Captain Hope.
Sir John Kinloch.
Dr. MacGregor.
Mr. Maxwell.
Sir Charles Pearson.
Mr. Renshaw.
Mr. Thomas Shaw (afterwards the Solicitor General for Scotland).
Mr. G. A. L. Whitelaw.
Mr. Stephen Williamson.

That the Committee have power to send for Persons, Papers, and Records.

That Five be the Quorum of the Committee.

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REPORT.

THE SELECT COMMITTEE appointed to inquire into the working of the LAW of SCOTLAND relating to FEUS and LEASES for BUILDING, including the CASUALTIES payable to the SUPERIOR, and the CONDITIONS frequently inserted in FEU CHARTERS and LEASES for BUILDING, and to consider whether any, and, if any, what amendment of the Law is required;——HAVE agreed to the following REPORT:—

COMMUTATION OF CASUALTIES OF SUPERIORITY.

THE first point to which the attention of the Committee was called by the evidence, was the hardship alleged to arise from the exaction of casualties by superiors of feus from their vassals, the proprietors of these feus.

The only two casualties which it is necessary here to notice are "relief," the amount payable on the entry of an heir of the last entered vassal to the feu, and "composition," the amount payable on the entry of a stranger, or "singular successor," as he is generally termed. The amount payable by an heir in name of relief duty is a "duplicand," or twice the amount of the feu duty, and the amount of composition payable by a stranger or singular successor (where the composition is not ascertained by agreement, or in other words, "taxed"), is a year's rent or annual value of the property at the time when the composition becomes due. Where houses or other buildings have been erected upon the ground feued, whether prior or subsequent to the feu grant, their annual value is taken into account, and forms part of the sum payable in name of composition.

It was not represented by the witnesses that any grievance exists in the case of relief duty, so that nothing more need be said in regard to it, except in so far as it may require to be adverted to in dealing with the question whether it would be expedient to put an end to all payments falling due at uncertain intervals by vassals or proprietors of feus to their superiors.

As the substantial complaint was limited to the case of composition, it will be proper to explain the origin and nature of that casualty, and the present position of the law in regard to it.

Originally a vassal was not entitled, without the consent of his superior, to alienate his feu, either redeemably or irredeemably, so as to substitute a stranger as vassal in his place, and according to the law of Scotland all persons were, and still are, regarded as strangers to the feu, except the heir of the investiture for the time flowing from or confirmed by the superior. It is generally understood that the right or privilege of the superior on this point resulted from the personal choice which he had of a vassal when feus were held on condition of military service.

The right of the superior to decline to receive any vassal other than the heir of the vassal last entered, was plainly inconsistent with public policy, inasmuch as it prevented the land from being improved, and becoming an article of commerce, or a fund of credit to the owner for the time, and this led to the superior's right of refusal being first abridged, and afterwards taken away, by a series of statutes.

The first of these was an Act passed in 1469 (c. 37), which conferred upon creditors the privilege of "apprising" or attaching the lands belonging to their debtor for payment of his debts. This privilege, at first conferred upon creditors only, was gradually extended

to purchasers, by technical proceedings, which it is unnecessary here to describe in detail. The superior was, by the Act, ordained to receive the creditor as his "tenant," *i.e.*, as his vassal, on payment of a year's mail or rent, as the land was set (*i.e.*, let) at the time.

By a later Act of 1672, chapter 19, adjudgers, *i.e.*, persons who had obtained adjudications or judicial dispositions of lands belonging to their debtors, subject to a right of redemption on the part of the debtors during a limited period, were placed on the same footing with apprisers as regards the obligation of the superior to grant an entry, and afterwards by the Act of 28 Geo. II. c. 50, Sections 12 & 13, superiors were ordained to enter purchasers or disponees upon their making certain payments, while now, as the result of successive modifications in the law regarding entry, superiors are bound to enter any person having a formal title from the last vassal, upon payment of such fees or casualties as they are by law entitled to receive.

From what has now been stated, it will be seen that composition is practically a fine or price which the superior is entitled to exact as a condition of admitting as his vassal a person other than the heir of the last investiture, and that the right to composition is as much a part of the superior's reserved estate as his right to feu duty.

Sometimes the amount of composition is fixed by agreement, or, as it is generally termed, "taxed." Where this is the case, it is usually fixed, like relief duty, at a duplicand, or twice the amount, of the feu duty, but it may be "taxed" at some other amount.

Where the composition is not "taxed," it is the full annual value of the subjects, as they are or could be let for the time when the claim arises, including the buildings which then exist upon them. It was decided in the year 1775, that the superior was entitled to have the annual value of the buildings, as well as the annual value of the land, taken into account in ascertaining his composition. Composition is usually payable only upon the death of the last entered vassal, but sometimes it is by stipulation made payable upon every sale or transfer of the feu.

It has long been felt that the liability of vassals to make payments, often of large amount, at uncertain intervals, and upon the occurrence of uncertain events, is attended with great public disadvantages, as well as with no small hardship in individual cases. A person may purchase a feu, and ascertain that the last entered vassal is comparatively young, so that, according to the ordinary expectancy of life, there may be no probability of a casualty becoming exigible for many years, but if the vassal should suddenly die, a very large sum may become due, which the purchaser may be unable to pay without much inconvenience, or which he may possibly be unable to pay at all. Other illustrations might be given of the capricious and uncertain incidence of this charge.

This feeling led to its being provided by the Conveyancing and Land Transfer (Scotland) Act of 1874 (37 & 38 Vict. c. 94, s. 23), that in feus granted after the commencement of the Act, the annual feu duty should be a fixed amount or quantity, and that no casualties or duties should by law, irrespective of express condition or covenant, be payable to the granter of the feu, or his successors in the superiority, and that it should not be lawful to condition or stipulate for any casualty to be paid on the succession of an heir, or the acquisition of a singular successor, or in any way except at fixed intervals; but that it should be lawful to condition or stipulate for a permanent increase or reduction of the feu duty, or for payment of a casualty in the form of a periodical fixed sum or quantity, provided that the amount of such increase or reduction, or of such periodical additional sum or quantity, should be certain, and that the time or times at which such additional sum or quantity should be exigible, or from and after which such increase or reduction should have effect, should also be certain, and not dependent upon any event or occurrence, except the occurrence or recurrence of the time or times at which, under the terms of such condition or stipulation, the periodical additional sum or quantity was made exigible, or the increase or reduction of the feu duty was to have effect.

This was undoubtedly a great improvement upon the former law, as it prevented, in the case of future feus, the evils which resulted from the uncertainty which existed in the case of old feus in regard both to the amount of the composition and the time at which it might become payable.

The

The Conveyancing Act of 1874 also made provision for the redemption of casualties incident to any feu created prior to the commencement of the Act,—it being declared by Section 15 that such casualties should be redeemable on such terms as might be agreed on between the superior and the proprietor of the feu in respect of which they were payable, and that, failing agreement, all such casualties, except those which consist of a fixed amount stipulated and agreed to be paid in money or in fungibles at fixed periods or intervals, might be redeemed by the proprietor of the feu in respect of which the same were payable, on the following terms, viz , in cases where casualties are exigible only on the death of the vassal, such casualties might be redeemed on payment to the superior of the amount of the highest casualty, estimated as at the date of redemption, with an addition of 50 per cent., and in cases where casualties are exigible on occasion of each sale or transfer of the property, as well as on the death of the vassal, such casualties might be redeemed on payment of two and a half times the amount of the casualty, estimated as aforesaid, payable on such occasions: Provided always that where the casualty consists of a sum calculated on the footing of an annual sum being paid for each year from the date of the last entry, such casualties might be redeemed upon payment of eighteen times the amount of such annual sums; And provided always that before any such redemption, otherwise than by agreement, should be allowed, any casualty which had become due should be paid, and in the case of such annual sums, the amount of such sums since the last payment thereof, and that the redemption should apply only to future and prospective casualties.

It was further provided by Section 17 that it should be lawful for the superior to elect that the redemption money provided as above-mentioned, should be converted into an annual sum, equal to four per cent. upon the capital.

It will be seen that these provisions materially modified the evils incident to the casualty of composition, and probably if all casualties had been, like those stipulated subsequent to the passing of the Act, of fixed amount, and payable at fixed periods, there would not have been much complaint on the subject. But all the uncertainties, both as regards amount and time of becoming payable, remain in the case of the many feus granted prior to 1874, and it appears from the evidence that very little advantage has been taken of the provisions of the Act of that year, which authorise the commutation of casualties, at the instance of the vassal. This would seem, *primâ facie*, to suggest that the terms of commutation provided by the Act must have been regarded as too high, though possibly the slight resort which has been had to commutation, may have been to some extent due to other causes.

In addition to the hardship and inconvenience which must necessarily result from liability to any payment attended with such uncertainty, both as regards its amount and as regards the time of its becoming exigible, it has been represented to the Committee as a grievance severely felt in some places, that superiors have begun to exact casualties after having abstained from doing so for many years. It is quite intelligible that proprietors of feus should feel acutely a demand for payments which they have not expected, and which had not, in their previous experience, been demanded. But it must be borne in mind that on the occasion of the purchase of any heritable property in Scotland, it is usual, and indeed necessary, to have recourse to the services of a solicitor, and every solicitor is well aware of the liability to a claim for composition, unless he finds from the titles that that claim has been in some way acquitted or discharged, and it would be his duty to inform his client, the purchaser, that the claim might have to be met in certain contingencies. While, therefore, the strong feeling which arose in certain places, when the superiors began to look more closely to their rights, is quite intelligible, it would be difficult to say that what has occurred in these places would suggest the propriety of legislation, unless it was shown to be expedient upon more general grounds.

There appears to be now a prevalent consensus of opinion, both professional and lay, that it would be desirable to put an end to such payments as relief duty and composition, for reasons of general policy and public interest, and the question comes to be, should this be enforced by legislation, and if so, upon what terms?

From what has been already said, it is plain that both these casualties are well known parts or adjuncts of the estate of superiority, and that Parliament could not be asked to abolish them without providing, in some form, a fair equivalent to the superior.

The purchase of superiorities has long been a favourite form of investment in Scotland, especially for trustees in charitable, ecclesiastical, and other trusts of prolonged

endurance, and in the price given for them, regard has been had not only to the annual feu duties, but also to the casualties. In some cases, where the feu duty has been nominal, or little more than nominal, the casualties have been of large amount, and have thus constituted the only valuable part of the estate of superiority purchased.

The first point to be considered is whether the abolition of the casualties in question should be optional either to the superior or to the vassal, or to both, or whether it should be compulsory, and the preponderance of opinion among the witnesses examined, is to the effect that it should be compulsory. The Act of 1874 has certainly failed to bring about commutation upon any considerable scale, and even if the option of claiming commutation was extended to the superior, it is very doubtful whether this would greatly enlarge the number of cases in which the casualties would be commuted. The Committee concur in the view that it would be desirable to provide by legislation that all existing casualties should be compulsorily commuted, and that even the stipulation for casualties of fixed amounts becoming due at specified periods, allowed by the Act of 1874, should be prohibited for the future, the sole payments to be hereafter stipulated to be made by the vassal to the superior in respect of the feu, to take the form of an annual feu duty,—provided always that a just basis for the commutation could be arrived at. Upon this essential point, however, as well as upon the question at what time the commutation should be enforced, a difference of opinion exists among the members of the Committee.

A minority of the Committee think that commutation should be compulsory and immediate and that the basis of commutation of casualties becoming due on the death of the last-entered vassal should be the capital value of one casualty (in addition to any casualty which may have already become due), convertible into a permanent annuity, or addition to the feu duty, at the rate of 3 per cent. upon the capital value of the casualty in the ordinary case, and that where the casualties are stipulated to be paid on each sale or transfer of the property, the rate of conversion should be somewhat higher, say 4 per cent. There seems to be a general agreement on the part of the witnesses that, if the commutation is made compulsory, the basis adopted by the Act of 1874, viz., in the ordinary case, a casualty and-a-half, and in the less common case, two casualties and-a-half, would be too high, as also that the rate of conversion there provided would also be excessive, and it appears to a minority of the Committee that the justice of the case would be met by taking the amount of one casualty, and converting it into an annuity upon a 3 per cent. or a 4 per cent. table, according as the casualty is payable only on the death of the last-named vassal, or upon each sale or transfer of the property. It was suggested that 2 per cent. would be a sufficient rate to be taken for conversion, as this was the rate enacted by the Statute of George II. for the commutation of the casualties of ward, marriage, and recognition — 1 per cent. having then been awarded for the casualty of marriage, and 1 per cent. for the casualties of ward and recognition. In view, however, of the relatively rare events upon these casualties opened, and of other differences distinguishing them from the casualties of relief and composition, it appears to the Members of the Committee just referred to, that 2 per cent. would be too low a rate of commutation to apply to the latter.

If this basis of settlement was adopted, the next important question would be from what date should the annuity, or addition to the feu duty, to come in place of the commuted casualty, be made payable, and it was suggested by some of the witnesses that the payment should not commence until the next casualty would have fallen due, if there had been no commutation, and reference was made to the Patronage Abolition Act of 1874, as a precedent for following this course. Under that Act, if the patron of the parish desired to claim compensation for the patronage abolished, he was required to apply to the sheriff within six months, to have the value of the patronage fixed, but the compensation awarded in respect of it, was not to be payable until the cure became vacant. One of the reasons for postponing the payment in this case may probably have been that no other fund than the stipend existed out of which the compensation could be paid, and that the stipend would not be available for this purpose, until a vacancy occurred.

It appears, however, to be in accordance with general principle and with justice, that where a right is abolished or commuted the equivalent given for it should begin to run from the date of the abolition or commutation, seeing that if the commencement of the payment is postponed for, it may be, 40, 50, or 60 years, this would infer a very large deduction from the value of the equivalent; a deduction, too,

too, which could not be estimated with any approach to accuracy when the capital value of the right extinguished was determined, and which would further be subject to all the contingencies which now constitute the great evil of casualties becoming due at uncertain periods and upon uncertain events.

Still, assuming the basis of commutation just mentioned to be adopted, some difficulty must necessarily be encountered in estimating the capital value of the casualty upon which the annuity or addition to the feu duty should be calculated, where, as in the ordinary case, the casualty becomes payable only upon the death of the last-entered vassal. It appears to the Committee, however, that actuarial tables could be framed which, having regard to the age of that vassal and his expectancy of life, would show when the casualty would probably become due in consequence of his death, and that the capital value of the casualty which would then be payable could be converted into a present payment by rebating the interest applicable to the intervening period.

Where a casualty is payable upon every sale or transfer of the property, the probability of such sale or transfer might be estimated by reference to the experience of the frequency of transfer in cases of the class to which the one in question belongs, as it appears from the evidence that houses in towns are usually transferred oftener than considerable estates in the country, and that consequently casualties would become more frequently due in respect of properties of the former than of the latter class. This appears to be a kind of contingency with which an actuary could deal with approximate accuracy, by having regard to the date of the last transfer, and the proved frequency of sales or transfers in the particular class of property. The question has been considered whether a higher rate should be fixed for the commutation of casualties payable in respect of urban property than that which should be awarded in the case of rural property, in respect that the former changes hands more frequently than the latter, but there do not seem to be sufficient grounds for recommending that any difference should be made between the two cases.

It has been suggested, in view of the difficulty of arriving at a formula applicable to all cases while the particular circumstances of each may be materially different, that a Commission should be established by which all casualties should be commuted within a specified time, but the Committee do not think that it would be necessary to have recourse to that method of commutation. They are not favourable to the establishment of Commissions or analogous tribunals, if other means exist for accomplishing the object desired, and they believe that when the minds of actuaries have been directed to the subject, rules of practice would be established which would work sufficiently well. When these rules came to be generally known in the profession, the great majority of commutations would probably be carried out by arrangement between the superiors and their vassals, or their respective agents.

While these are the views entertained by a minority of the Committee in regard to the commutation of casualties, a majority feel themselves unable to recommend that immediate compulsory commutation should be enforced by legislation, partly upon the ground that many vassals would object to having an addition made at once to their feu duties by way of commutation of a charge which might not fall upon them for many years, and which possibly might never do so, and partly because it is, in their opinion, impossible to arrive at a basis of present commutation which could be fairly applied to all cases. One of the elements of uncertainty attaching to the problem of fixing a basis universally applicable, is that it cannot be known antecedently whether the next casualty which will become due will be relief or composition, and if it should turn out to be relief, the basis above suggested would appear to be too high. If the next casualty payable should turn out to be relief, the payment of it, *i.e.*, twice the amount of the feu duty, would probably enfranchise the property for a period which might be roughly estimated at 30 years, and it would be a hardship on the vassal to be during that time paying an annual addition to the feu duty calculated upon the basis of a composition. Again, there might, especially in the case of family estates, be a succession of entries of heirs, each of which would only infer liability for payment of relief duty, and in this case the hardship of enforcing a commutation upon the basis of a composition, would be largely increased.

This being so, it appears to a majority of the Committee that the best course would be to provide that compulsory commutation should not be enforced until a casualty of composition should become due, and they would recommend that it should then be in the option of the vassal either to pay the casualty in a capital sum, or to have it converted into an addition to the annual feu duty, arrived at by taking 3 per cent. upon the capital value or amount of the composition. So far the arrangement

would only provide for payment of a debt which had already accrued due, *i.e.*, the composition, and the question would remain what allowance should be made by way of commutation of future casualties. Here, again, it is to be borne in mind that it cannot be known whether the next casualty will be relief or composition, and that consequently a commutation proceeding upon the basis of composition alone would be excessive. While it is difficult to average the chances of future casualties being relief or composition, it appears to a majority of the Committee that substantial justice would be done by providing that all future casualties should be compulsorily commuted in respect of a permanent addition to the feu duty, of say 1 per cent. on the amount or value of the composition which had already become due in the ordinary case, and a somewhat larger amount, say 1½ per cent., where by the terms of the grant a casualty is payable on every sale or transfer of the property. This payment, beginning to run from the date of the first composition falling due after the passing of the Act of Parliament requiring compulsory commutation, would provide what would be in effect a sinking fund, to serve as an equivalent for all subsequent casualties, whether relief or composition. In this connection it is to be kept in view, that it is still competent, prior to infeftment, to put forward the heir as formerly, and thus enable the true owner of the property, though a stranger, to obtain an entry upon payment of relief duty. This consideration favours the view that a somewhat low rate of interest upon the amount of a composition should be fixed in effecting a compulsory commutation, a view which receives further support from the fact that the current rates of interest have fallen materially even since 1874, and that they are still falling. The recommendations made in this paragraph would be without prejudice to any voluntary arrangements for the permanent extinction of the casualties which might be entered into at or prior to the first composition falling due.

Several members of the Committee expressed the view that the terms of commutation and the rates of interest recommended in the preceding paragraph may be unduly onerous to feuars in many parts of the country.

Some evidence was given in regard to a point already adverted to, viz., the effect which the Conveyancing Act of 1874 has had in enlarging the rights of superiors by precluding a singular successor who had taken infeftment upon his conveyance, and thus become impliedly entered with the superior, from putting forward the heir of the last vassal to take an entry, and thereby escaping with payment of relief duty instead of composition.

There is no doubt that considerable hardship was inflicted upon vassals who had taken infeftment prior to the passing of the Act of 1874 without entering with the superior, seeing that when their infeftments were, by the operation of the Act, converted into implied entries, the fee was full, and it was no longer possible to put forward the heir. Since, however, the effect of the Act of 1874, as interpreted by decisions, has become well known, it has been in the power of singular successors to avoid taking infeftment until they have made their arrangements with the superior by putting forward the heir or otherwise; and the hardship is further mitigated in some cases by the Act of 50 & 51 Vict. c. 69, s. 1. If the Committee had decided to recommend the immediate compulsory commutation of all casualties, this question would have ceased to possess much, if any, practical importance, but as they do not see their way to recommend such immediate compulsory commutation, they think it would be proper to restore singular successors by legislation to the position in which they stood prior to the passing of the Act of 1874, as regards their power to put forward the heir. This might be done by declaring that, notwithstanding the implied entry brought about by infeftment, a singular successor should have right to put forward the heir under the circumstances in which he would have been entitled, prior to the passing of the Act of 1874, to do so.

ENFRANCHISEMENT OF BUILDING LEASEHOLDS.

Another question submitted for the consideration of the Committee was, whether it would not be desirable to provide for the conversion of leaseholds acquired for building purposes into permanent rights.

Although the ordinary tenure upon which land is acquired for building purposes in Scotland is feu, building leases, usually for a term of 99 years, are not uncommon in certain localities, and it has been the custom in some rural villages, and fishing communities, especially on the north-east coast, to build dwelling-houses upon land held without any written title, which would, in legal estimation, be held to import a right of lease from year to year only.

According

According to the law of Scotland, where buildings are erected upon ground held on lease, these buildings, in the absence of express stipulation to the contrary, become part of the soil, and belong to the proprietor, upon the expiry of the lease. In the case of long leases, this is felt to be a hardship. If the lessee makes no new arrangement with the lessor and quits his holding at the expiry of the lease, he has to leave the buildings to the lessor without receiving any compensation for them. If, on the other hand, he arranges for a renewal of the lease, the existence of the buildings is taken into account, and he has either to make a capital payment, or to submit to an increase of rent in respect of them, under the new lease. If, again, he arranges for a conversion of his tenure into feu, he has practically to purchase at a capital price the buildings which he has himself erected, or to pay for them by a feu duty fixed at a higher rate than would have been exacted if the buildings had not in legal estimation belonged to the lessor. It appears from the evidence that in various localities in Scotland, there is a considerable feeling that some legal remedy should be provided for this state of things, and that the lessee should be entitled to have his tenure converted into a permanent one upon fair terms.

The other case, viz., that of buildings being erected upon ground held upon tenancy at will, and without any written title, is less common, though some rural villages, and the fishing communities on the north-east coast of Scotland, afford illustrations of it. No evidence was submitted to the Committee that in either case the rights of the lessors have been unduly pressed, and although the lessees appear generally to have enjoyed practically, though not as matter of legal right, reasonable permanency of tenure, the evils resulting from insecurity of tenure are more or less felt

As it is well known that the erection of buildings, often of very considerable value, upon ground to which the persons erecting the buildings have no permanent, and sometimes no written, title, is common upon the north-east coast of Scotland, the Committee expected to have had more evidence upon the subject. The evidence submitted to them in regard to it was very slight, and consequently it was not thought necessary by those who may be supposed to represent the lessors' interest to adduce counter evidence. The Committee, therefore, would not feel warranted in proceeding much, or at all, upon the evidence which they have heard on this point, but would prefer to deal with the question upon considerations of general policy.

As has been already stated, the ordinary tenure of building land in Scotland is feu, whereby a permanent right is acquired, and consequently the question of what is generally known as the enfranchisement of leaseholds, is not so important in Scotland as it is in England, where the prevalent tenure of building land is leasehold. But the same considerations of public policy enter into the question as it arises in both countries, and in dealing with the Scotch case, it is important to keep in view what has occurred with reference to the analogous case in England.

The Royal Commission on the Housing of the Working Classes, in their Supplementary Report, recommended "that legislation favourable to the acquisition on equitable terms of the freehold interest on the part of the leaseholder would conduce greatly to the improvement of the dwellings of the people of this country," because "the prevailing system of building leases is conducive to bad building, to deterioration of property towards the close of the lease, and to a want of interest on the part of the occupier in the house he inhabits," and because "the system of building on leasehold land is the great cause of the many evils connected with overcrowding, unsanitary buildings, and excessive rents."

In like manner the Town Holdings Committee, in their final Report, recommended the local application of enfranchisement generally on the following grounds. "After the statements made before us by various witnesses, we cannot doubt that the ownership by a working man of the house he occupies is one of the strongest inducements to those habits of life which make him a good citizen, and a useful member of the community, and that this stimulus is more strongly felt in the case of a man who has, or can obtain, the freehold than in that of a lessee for a term of years." Further "with regard, however, to improvements which lessees holding under existing leases may hereafter desire to make, a measure of enfranchisement would place such lessees in a better position by enabling them to acquire the freehold, before making the contemplated outlay. So far as the power of enfranchisement would promote such improvements, it may be looked upon as a benefit to the public." They therefore recommended the local application of enfranchisement generally. It appears to the Committee that these considerations of general policy are applicable to Scotland as well as to England, and they therefore advise

that provision should be made by legislation for the enfranchisement of building leases in Scotland, whether these leases are for a term of years or upon a tenancy at will.

Two methods of bringing about this result might be adopted, either (1) by compelling the lessors to sell the value of their interest for a present capital payment, or (2) by providing that the lessee should obtain a permanent right of feu upon his becoming liable for such feu duty as would fairly represent the value of the rights which the lessor has in the subject when enfranchisement is claimed.

The lessor might be required, upon receiving a notice from the lessee, to estimate the present value of his interest, the lessee desiring enfranchisement at the same time giving a statement of what he considers the fair value of that interest, and if they could not come to an agreement, the difference between them might be authoritatively and finally settled by statutory arbitration. The consideration to be paid by the lessee, whether it was a capital sum, as for an out-and-out purchase, or a feu duty, as for a permanent right of feu, could be easily settled by an arbitration tribunal.

If the lease contained building restrictions, or obligations agreed to in the interest of the lessor as such, or in the interests of the adjoining lessees or other persons, such restrictions might be duly conserved, either in the conveyance which the lessor would grant to the lessee, as upon a purchase, for payment of a capital sum, or in the feu grant which he would execute, if it was decided to convert the leasehold right into a feu.

ACQUISITION OF BUILDING LAND BY LOCAL AUTHORITIES.

The next question to which the Committee would advert is one which has long excited much interest in various parts of Scotland. It is alleged that there are towns and villages situated upon the property of proprietors who do not desire the extension of the towns or villages, and decline to give land, either for building houses or for industrial purposes, in their vicinity, either absolutely or on lease, except upon prohibitive terms. The effect of this is said to be not only to prevent the natural expansion of such communities, but to lead to their decay, as in these days, if a community does not advance, it is almost certain to retrograde.

Such a state of things is, in the judgment of the Committee, a public evil demanding remedy by legislation.

The remedy which the Committee would suggest is that the local authority, whether town council, county council, or other elected body, should be empowered to purchase land by agreement, or compulsorily, for the purposes either of providing sites for dwellings for workmen or other persons, or of otherwise providing for the present or prospective development of the town or village. It appears to the Committee that, subject to the review or control immediately afterwards suggested, considerable latitude might be left to the local authorities, both as to the purposes for which the land might be acquired, and as to the manner in which it should be dealt with when acquired, whether by letting on lease, feuing, or selling, to the persons by whom it was to be occupied. It might be provided that before a local authority should proceed to acquire land for the purposes in question, it should issue notices to apprise all persons interested of what was proposed, and that any ratepayer within the area of the local authority should be entitled to represent to the Secretary for Scotland, or to the Board proposed to be constituted under the Local Government (Scotland) Bill now before Parliament, against the contemplated acquisition of land. If, in the judgment of the Secretary for Scotland, or the Board, sufficient grounds should be established for prohibiting the proposed acquisition, the Secretary for Scotland or the Board should have power to prohibit it.

Machinery for the acquisition of land, simpler and less expensive than that prescribed by the Lands Clauses Acts, might be provided, as has been done in the Parish Councils Act for England, in the Local Government (Scotland) Bill, and in other Bills now before Parliament.

SITES FOR DWELLING HOUSES FOR PUBLIC OFFICIALS.

A question has been raised as to whether provision should be made for the compulsory acquisition of land for building dwelling-houses for public officials. The Committee hope and believe that very few proprietors in Scotland would decline to give, upon

upon reasonable terms, land which might be required as sites for dwelling-houses for the public officials concerned in the administration of justice, the investigation of crime, and the preservation of the public peace, and they would not feel warranted in making an affirmative recommendation in the direction sought, in the absence of evidence that it is necessary.

REMEDY FOR INJURY TO BUILDINGS BY MINERAL WORKINGS.

A question of much practical importance, and of no small difficulty, has been brought under the notice of the Committee, in regard to a hardship complained of by feuars of building ground in Motherwell, Hamilton and other places where the industry of mining is largely carried on.

It appears that in early times, when mining was not prosecuted to the extent, or in the manner in which it is now, it was usual to make no mention of minerals in feu grants given off for building purposes, or at least that such grants frequently contained no mention of minerals. The effect of this was to make the vassal proprietor of the ground *a caelo usque ad centrum*, including the minerals, and it was in his option whether he should leave the minerals in the ground, as a support for the surface and any buildings which might be erected upon it, or work them out wholly or partially; in other words, he could sacrifice the minerals to the surface, or the surface to the minerals, as he pleased.

It afterwards became usual in making such feu grants, to reserve the minerals to the superior, but to stipulate that the vassal should be entitled to receive damages for any injury which the surface, or the buildings upon it, might sustain in consequence of the minerals being worked.

But for more than 20 years, it appears to have been the practice, according to the prevalent style of feu grants for building in the localities in question, to take the feuar bound to erect and maintain a dwelling house, or other structure of a specified value, upon the ground feued, to reserve the minerals to the superior, and to provide that he should be entitled to work them out completely, without being liable to the vassal for any damage which might be thereby caused to the surface or the buildings upon it.

Side by side with this change in the style of charters or other feu grants, there came to be an alteration in the ordinary methods of working the minerals. The mode of working usually adopted till about 50 years ago, was that commonly described as the old method of stoop and room. This consisted in taking out a considerable portion of the mineral, and leaving the rest permanently in the ground in the form of stoops or pillars, which generally proved sufficient for the support of the surface.

The method of long wall working was next introduced, in which the whole mineral was taken out, and the waste propped and packed as the work proceeded. Where the mineral was so worked, the surface usually came down, but upon a more or less even plane, causing much less damage to the surface than the mode to be immediately mentioned.

Lastly came the modern method of stoop and room working, in which a relatively small proportion of the mineral is taken out in working forward, large stoops or pillars being then left, which, however, are wholly taken out in working back, so that when they are removed, no support remains, and the surface comes down, frequently causing serious damage to the buildings upon it, and sometimes bringing about their destruction.

Some idea of the extent of the subsidence may be gathered from the fact that it was stated in evidence that there are about 12 seams in the Lanarkshire coal-field, of which only four have as yet been effectively worked, but that the thickness of these four and the consequent vacuum of waste left by their being wrought out, is about 20 or 21 feet. Probably the surface would not come down to this extent, but it is not surprising that where such a large measure of support is withdrawn, it should descend, with the result of causing serious injury to the buildings upon it.

The grievance felt in the Motherwell and Hamilton districts and other places, is that in consequence of all the available building land being in the hands of a small number of proprietors, persons whose businesses compel them to live and work there are obliged to take feus on such terms as the proprietors may dictate. They complain

that they should, by the terms of their feu grants, be bound not only to erect, but to maintain, buildings upon the surface, and yet that they should be obliged to submit to these buildings being seriously injured, and possibly destroyed, without their receiving any compensation, and further that, although this injury or destruction might occur time after time, they would, by the terms of their feu grants, be bound as often to re-erect the buildings. It appears to the Committee to be established that the grievance is serious, operating hardly upon individuals as well as public bodies, and likely to create a feeling of dissatisfaction with the law which permits such things. The grievance seems to be confined to a comparatively limited area, practically to the western coal-fields of Scotland.

It was at one time made a question whether the stipulations of such grants did not involve such repugnancy as to liberate the feuars from their obligations under them, but in the case of Buchanan *v.* Andrew, 11 M. (H.L.), p. 13, it was authoritatively decided by the House of Lords that, as the contracts were voluntarily entered into, they must receive effect according to their terms, however great the hardship might be.

Various suggestions have been made for meeting the grievance, and the Committee have had the advantage of considering Mr. Donald Crawford's Bill (No. 157, of 1893) on the subject. One suggestion made in that Bill is, that notwithstanding the express surrender by the vassals of their right to support, the superiors should be compelled by law to leave reasonable support, or at all events to prosecute their mineral working in such a way as to minimise the damage to the surface and the buildings upon it. In dealing with the suggestion that the Legislature should interfere to enforce the leaving of support for the surface and the buildings upon it, it is necessary to keep in view not only that the vassals voluntarily surrendered the right to support, but that the quantity of mineral which would require to be left, in order to provide adequate support, would be very great, and that the result would be to deprive the superiors of a large amount of mineral rents or lordships, as well as seriously to diminish the sums paid in wages to persons engaged in and about the business of mining, and to prevent the mineral wealth of the country from being duly developed.

There is no doubt that in many cases the value of the minerals is much greater than the value of the surface, and that consequently while both are in the same hands, the proprietor not infrequently sacrifices the surface in order that he may be able to work out the minerals. It was stated in evidence that, in order to provide adequate support, from two-thirds to three-fifths of the mineral would require to be left unworked, and that, especially in the case of isolated buildings, the quantity of mineral requisite to support such buildings would, as regards value, largely exceed the value of the surface and the buildings upon it taken together.

Evidence was given to the effect that at a depth of 80 fathoms, where the splint coal is being wrought, it would be necessary to leave 115,000 tons, valued at 10,000*l.*, to support half an acre of building ground, and that if the Pyotshaw, Main and Splint seams at Motherwell had to be worked so as to furnish support to the surface, the loss would be about 1,000*l.* an acre. It was further stated that in the case of the Bent coal-field at Hamilton, extending to about 300 acres, about 105 acres of mineral would require to be left in the ground, or only partially worked, in order to support the buildings now on the surface, implying that about 2,000,000 tons of coal, worth upwards of half a million sterling, and inferring a loss of about 300,000*l.* in wages, would require to be sacrificed; as also that on the renewal of Mr. Watson's lease in 1887, pillars of coal were reserved in the seams which had been worked, with the view of giving the feuars the opportunity of purchasing them at a price of 240*l.* an acre, but that this offer was not accepted.

In addition to the damage done to the buildings, it was alleged that gas and water pipes had been cracked and broken by the subsidence of the ground, causing pecuniary loss, and danger to the public health, as also that the existing state of things led to a difficulty in obtaining houses for workmen, with the result that there was much over-crowding, attended by insanitary conditions and moral dangers.

It was on the other side represented that the amount of injury caused by the mineral workings had been much exaggerated, that feus for building continued to be taken off in considerable numbers after the effects of the workings had become generally known, and that any serious interference with the extraction of the minerals would be detrimental to the localities affected, as these are (it was said) chiefly dependent upon mining and the industries associated with it.

The

The Committee feel that it would be a very serious thing for the Legislature to interfere at the suit of private individuals who had made such agreements with their eyes open, to prevent the mineral wealth of the country from being fully developed, and they are therefore indisposed to recommend that Parliament should enforce the leaving of any part of the minerals in the ground, with a view of supporting the surface, where the vassals had by express contract renounced or surrendered their right to support. Most of the witnesses who came forward to complain of the existing state of things, appeared to be satisfied that it would be inexpedient to prevent the minerals from being fully worked out.

It was, however, suggested that if the minerals were fully worked out, with the result of causing damage to the surface and the buildings upon it, Parliament should enact that the superiors working out the minerals, should be bound to compensate their vassals for this damage. This seems to the Committee to raise a different and more difficult question. It is not disputed that the claim for damages would be quite reasonable if the vassals had not expressly renounced the right of support, and agreed that the superiors should have power to work out the minerals without paying them damages for any loss or injury which they might thereby suffer, but it is said that where the vassals have so agreed, there is no reason why the bargain which the parties thought fit to make with each other should be disregarded, there being nothing immoral or contrary to public policy in it, that the vassals presumably got their feus cheaper than they would otherwise have done in consequence of having renounced their right to support and to damages; as also that in view of the fact that the minerals were in many cases of much greater value than the surface, the superiors would not have granted the feus at all, except upon condition that they should be entitled to work out the whole minerals, without paying to the vassals compensation for damage done to the surface. It is, however, to be kept in view that in dealing with what may be described as a monopoly of land, the Legislature has, in some cases, insisted that agreements should be equitable, and provided that if they are inequitable, they should not be enforced. Illustrations of this will be found in the Agricultural Holdings Acts. The damage now under consideration is capricious in its incidence—it affects some buildings very seriously, and others scarcely appreciably, if at all; and persons seem to take feus in the hope, if not in the expectation, that it will not affect them. Further, the profit derived by the superiors from working out the whole minerals is large, and it does not appear that any great inroad would be made upon it, if the superiors were required to make good the relatively small amount of damage which would require to be paid, if the common law right to damages, renounced in the feu grants, was restored by Parliament. Upon the whole, a majority of the Committee think that there is ground for the Legislature interfering to reinstate or reserve this common law claim to damages, both in the case of past and future feu grants, though not for requiring that support should be left for the surface and the buildings upon it, and thus in effect prohibiting the working out of the minerals. A minority dissent from this view, in so far as it relates to feu grants already existing, but think that it might properly receive effect as regards future feu grants.

What has now been said sufficiently indicates the view which the Committee take of the suggestions put forward in Clause 1 of Mr. Crawford's Bill, *videlicit*, that where land has been or shall be feued or let upon a condition that buildings were or are to be erected thereon by the vassal or lessee, any contract or agreement purporting (*a*) to entitle the superior or lessor to do, or authorise to be done, any act whereby such buildings may be injured, which, but for such contract or agreement, he would not have been legally entitled to do; or (*b*) to release the superior or lessor from any liability to pay damages for doing injury to such buildings, or authorising any act whereby injury was caused to the buildings, which, but for such contract or agreement, he would have been liable to pay,—shall be void.

The Committee understand that Clause 2 of Mr. Crawford's Bill is not intended to compel the superior or lessor to resume possession of the land with the buildings upon it, on payment of the value of the buildings, as a condition of his being entitled to work the minerals, but only to provide that if the superior or lessor should be desirous of working them without incurring liability to the vassal or lessee for any damage thereby caused, in the event of the Legislature interfering, as above suggested, to reinstate or reserve the claim of the vassal or lessee to reparation in respect of his property being injured by the mineral workings, he shall be entitled to resume upon the terms specified. In other words, the clause is a provision in favour of the superior or lessor, not of the vassal, or lessee, and it appears to the Committee that, so regarded, it is unobjectionable.

A majority of the Committee further think that the Legislature might properly declare that the provisions of such feu grants shall be invalid, in so far as they involve a repugnancy, and in particular in so far as they purport to impose an obligation upon the vassals to rebuild their houses or other erections after they have been destroyed by mineral workings, especially as the obligation would, according to its terms, bind the vassals to re-erect the buildings as often as they might be brought down by the mineral workings. The considerations which prevailed with the majority of the judges of the Court of Session in the case of Buchanan, &c. *v.* Andrew, 9 M. 554, would seem to warrant such a statutory interference with the grants. A minority, however, consider that such legislation should be made applicable only to future feus. It is to be observed that little, if any, practical advantage would accrue to vassals from legislation limited to this point, as buildings are seldom totally destroyed by mineral workings, and it has not been proved that in any such case, the superior has called upon the vassal to rebuild.

COMMUTATION OF MULTURES.

Evidence was submitted to the Committee in favour of a better statutory provision than that which now exists for the commutation of multures payable under feu charters in two towns. It would not be within the reference to this Committee to enter upon the consideration of the servitude of thirlage generally, a servitude which may be, and often is, constituted otherwise than by feu charters. The Committee are disposed to think that if this subject is to be further dealt with by legislation, it should be in a Bill not limited to the servitude where it happens to be constituted by feu charter, but extending to the servitude generally. So far as the evidence adduced before them on this subject is concerned, it appears to show that in both the towns referred to, it has hitherto been possible to arrive at fair arrangements, but at the same time the Committee think that it would be well to take the earliest opportunity which may occur of providing a simpler and less cumbrous method of commuting payments due under the servitude in question, than that which is provided by the Act of 39 Geo. III. Chapter 55. The reasons which led to the servitude being established originally have long ceased to exist, and it is quite out of harmony with modern requirements and ideas.

26 *July* 1894.

PROCEEDINGS OF THE COMMITTEE.

Wednesday, 18*th April* 1894.

MEMBERS PRESENT:

Mr. Baird.	Mr. Maxwell.
Mr. Donald Crawford.	Mr. G. A. L. Whitelaw.
Mr. Dalziel.	The Lord Advocate.
Captain Hope.	Dr. MacGregor.
Mr. Renshaw.	Sir John Kinloch.
Mr. Thomas Shaw (The Solicitor General for Scotland).	Sir Charles Pearson.

The LORD ADVOCATE was called to the Chair.

The Rev. *J. A. Smith* and Mr. *William Hall* were examined.

[Adjourned till Wednesday, 2nd May, at Twelve o'clock.

Wednesday, 2*nd May* 1894.

MEMBERS PRESENT:

The LORD ADVOCATE in the Chair.

Dr. MacGregor.	Sir John Kinloch.
Sir Charles Pearson.	Mr. Donald Crawford.
Mr. Maxwell.	The Solicitor General for Scotland.
Mr. G. A. Whitelaw.	

Mr. *Mordan Carthew Yorstone*, Mr. *William Birkmyre*, Mr. *Robert Strathern*, W.S., Provost *Thomas Hunter*, Mr. *John Brown*, and Mr. *James Beattie* were examined.

Mr. *William Hall* was further examined.

[Adjourned till Wednesday, 20th June, at Twelve o'clock.

Wednesday, 20*th June* 1894.

MEMBERS PRESENT:

The LORD ADVOCATE in the Chair.

The Solicitor General for Scotland.	Captain Hope.
Sir Charles Pearson.	Mr. Stephen Williamson.
Sir John Kinloch.	Mr. Donald Crawford.
Dr. MacGregor.	Mr. Dalziel.
Mr. Renshaw.	

Sir *John Campbell Orde* and Mr. *Thomas Simpson* were examined.

[Adjourned till Wednesday next, at Twelve o'clock.

Wednesday, 27th June 1894.

MEMBERS PRESENT:

The LORD ADVOCATE in the Chair.

Sir John Kinloch.
Sir Charles Pearson.
Mr. Stephen Williamson.
Mr. Donald Crawford.
Dr. MacGregor.
Captain Hope.
The Solicitor General for Scotland.
Mr. Renshaw.
Mr. G. A. L. Whitelaw.
Mr. Dalziel.
Mr. Baird.
Mr. Maxwell.

The Committee deliberated.

[Adjourned till Wednesday, 11th July, at Twelve o'clock.

Wednesday, 11th July 1894.

MEMBERS PRESENT:

The LORD ADVOCATE in the Chair.

Mr. Baird.
Captain Hope.
Dr. MacGregor.
Sir Charles Pearson.
Mr. Renshaw.
The Solicitor General for Scotland.
Mr. G. A. Whitelaw.
Mr. Stephen Williams.
Sir John Kinloch.
Mr. Dalziel.
Mr. Donald Crawford.

The Committee deliberated.

[Adjourned till Wednesday, July 18th, at Twelve o'clock.

Wednesday, 18th July 1894.

MEMBERS PRESENT:

The LORD ADVOCATE in the Chair.

Mr. Donald Crawford.
Mr. Baird.
Sir Charles Pearson.
The Solicitor General for Scotland.
Mr. Stephen Williamson.
Mr. Renshaw.
Captain Hope.
Mr. Maxwell.
Mr. G. A. L. Whitelaw.
Sir John Kinloch.
Dr. MacGregor.

The Committee deliberated.

[Adjourned till Monday next, at Three o'clock.

Monday, 23rd July 1894.

MEMBERS PRESENT:

The LORD ADVOCATE in the Chair.

Mr. Williamson.
Sir Charles Pearson.
Mr. Donald Crawford.
Sir John Kinloch.
Mr. Renshaw.
Mr. G. A. L. Whitelaw.
Captain Hope.
Mr. Baird.
Dr. MacGregor.
Mr. Dalziel.
Mr. Maxwell.

The Committee deliberated.

[Adjourned till Thursday next, at Three o'clock.

Thursday, 26th July 1894.

MEMBERS PRESENT:

The LORD ADVOCATE in the Chair.

Mr. Baird.	Captain Hope.
The Solicitor General for Scotland.	Dr. MacGregor.
Mr. Stephen Williamson.	Mr. Donald Crawford
Mr. Maxwell.	Sir Charles Pearson.
Mr. G. A. L. Whitelaw.	Mr. Dalziel.
Sir John Kinloch.	Mr. Renshaw.

DRAFT REPORT, proposed by the *Chairman*, brought up and read the first time, as follows:—

"1. THE first point to which the attention of the Committee was called by the evidence was the hardship alleged to arise from the exaction of casualties by superiors of feus from their vassals, the proprietors of these feus.

"2. The only two casualties which it is necessary here to notice are 'relief,' the amount payable on the entry of an heir of the last entered vassal to the feu, and 'composition,' the amount payable on the entry of a stranger, or 'singular successor,' as he is generally termed. The amount payable by an heir in name of relief duty is a 'duplicand,' or twice the amount of the feu duty, and the amount of composition payable by a stranger or singular successor (where the composition is not ascertained by agreement, or, in other words, 'taxed'), is a year's rent or annual value of the property at the time when the composition becomes due. Where houses or other buildings have been erected upon the ground feued, whether prior or subsequent to the feu grant, their annual value is taken into account, and forms part of the sum payable in name of composition.

"3. It was not represented by the witnesses that any grievance exists in the case of relief duty, so that nothing more need be said in regard to it, except in so far as it may require to be adverted to in dealing with the question whether it would be expedient to put an end to all payments falling due at uncertain intervals by vassals or proprietors of feus to their superiors.

"4. As the substantial complaint was limited to the case of composition, it will be proper to explain the origin and nature of that casualty, and the present position of the law in regard to it.

"5. Originally a vassal was not entitled, without the consent of his superior, to alienate his feu, either redeemably or irredeemably, so as to substitute a stranger as vassal in his place, and according to the law of Scotland all persons were, and still are, regarded as strangers to the feu, except the heir of the investiture for the time flowing from or confirmed by the superior. It is generally understood that the right or privilege of the superior on this point resulted from the personal choice which he had of a vassal when feus were held on condition of military service.

"6. The right of the superior to decline to receive any vassal other than the heir of the vassal last entered was plainly inconsistent with public policy, inasmuch as it prevented the land from being improved, and becoming an article of commerce, or a fund of credit to the owner for the time, and this led to the superior's right of refusal being first abridged, and afterwards taken away, by a series of statutes.

"7. The first of these was an Act passed in 1469 (c. 37), which conferred upon creditors the privilege of 'apprising' or attaching the lands belonging to their debtor for payment of his debts. This privilege, at first conferred upon creditors only, was gradually extended to purchasers, by technical proceedings, which it is unnecessary here to describe in detail. The superior was, by the Act, ordained to receive the creditor as his 'tenant,' *i.e.*, as his vassal, on payment of a year's mail or rent, as the land was set (*i.e.*, let) at the time.

"8. By a later Act of 1672 (c. 19), adjudgers, *i.e.*, persons who had obtained adjudications or judicial dispositions of lands belonging to their debtors, subject to a right of redemption on the part of the debtors during a limited period, were placed on the same footing with apprisers as regards the obligation of the superior to grant an entry, and afterwards by the Act of 28 Geo. 2, c. 50, ss. 12 and 13, superiors were ordained to enter purchasers or disponees upon their making certain payments, while now, as the result of successive modifications in the law regarding entry, superiors are bound to enter any person having a formal title from the last vassal, upon payment of such fees or casualties as they are by law entitled to receive.

"9. From what has now been stated it will be seen that composition is practically a fine or price which the superior is entitled to exact as a condition of admitting as his vassal a person other than the heir of the last investiture, and that the right to composition is as much a part of the superior's reserved estate as his right to feu duty.

"10. Sometimes the amount of composition is fixed by agreement, or, as it is generally termed 'taxed.' Where this is the case it is usually fixed, like relief duty, at a duplicand, or twice the amonnt, of the feu duty, but it may be 'taxed' at some other amount.

"11. Where the composition is not 'taxed,' it is the full annual value of the subjects, as they are or could be let for the time when the claim arises, including the buildings which then exist upon them. It was decided in the year 1775 that the superior was entitled to have the annual value of the buildings, as well as the annual value of the land, taken into account in ascertaining his composition. Composition is usually payable only upon the death of the last entered vassal, but sometimes it is by stipulation made payable upon every sale or transfer of the feu.

"12. It has long been felt that the liability of vassals to make payments, often of large amount, at uncertain intervals, and upon the occurrence of uncertain events, is attended with great public disadvantages, as well as with no small hardship in individual cases. A person may purchase a feu, and ascertain that the last entered vassal is comparatively young, so that according to the ordinary expectancy of life there may be no probability of a casualty becoming exigible for many years, but if the vassal should suddenly die, a very large sum may become due, which the vassal may be unable to pay without much inconvenience, or which he may possibly be unable to pay at all. Other illustrations might be given of the capricious and uncertain incidence of this charge.

"13. This feeling led to its being provided by the Conveyancing and Land Transfer (Scotland) Act of 1874 (37 & 38 Vict. c. 94, s. 23), that in feus granted after the commencement of the Act the annual feu duty should be a fixed amount or quantity, and that no casualties or duties should by law, irrespective of express condition or covenant, be payable to the granter of the feu, or his successors in the superiority, and that it should not be lawful to condition or stipulate for any casualty to be paid on the succession of an heir, or the acquisition of a singular successor, or in any way except at fixed intervals; but that it should be lawful to condition or stipulate for a permanent increase or reduction of the feu duty, or for payment of a casualty in the form of a periodical fixed sum or quantity, provided that the amount of such increase or reduction, or of such periodical additional sum or quantity, should be certain, and that the time or times at which such additional sum or quantity should be exigible, or from and after which such increase or reduction should have effect, should also be certain, and not dependent upon any event or occurrence, except the occurrence or recurrence of the time or times at which, under the terms of such condition or stipulation, the periodical additional sum or quantity was made exigible, or the increase or reduction of the feu duty was to have effect.

"14. This was undoubtedly a great improvement upon the former law, as it prevented, in the case of future feus, the evils which resulted from the uncertainty which existed in the case of old feus, in regard both to the amount of the composition and the time at which it might become payable.

"15. The Conveyancing Act of 1874 also made provision for the redemption of casualties incident to any feu created prior to the commencement of the Act, it being declared by Section 15 that such casualties should be redeemable on such terms as might be agreed on between the superior and the proprietor of the feu in respect of which they were payable, and that, failing agreement, all such casualties, except those which consist of a fixed amount stipulated and agreed to be paid in money or in fungibles at fixed periods or intervals, might be redeemed by the proprietor of the feu in respect of which the same were payable, on the following terms, viz.: in cases where casualties are exigible only on the death of the vassal, such casualties might be redeemed on payment to the superior of the amount of the highest casualty, estimated as at the date of redemption, with an addition of 50 per cent.; and in cases where casualties are exigible on occasion of each sale or transfer of the property, as well as on the death of the vassal, such casualties might be redeemed on payment of two and a half times the amount of the casualty, estimated as aforesaid, payable on such occasions: provided always, that where the casualty consists of a sum calculated on the footing of an annual sum being paid for each year from the date of the last entry, such casualties might be redeemed upon payment of 18 times the amount of such annual sums: and provided always, that before any such redemption, otherwise than by agreement, should be allowed, any casualty which had become due should be paid, and in the case of such annual sums, the amount of such sums since the last payment thereof, and that the redemption should apply only to future and prospective casualties.

"16. It was further provided by Section 17 that it should be lawful for the superior to elect that the redemption money provided as above mentioned should be converted into an annual sum, equal to 4 per cent. upon the capital.

"17. It will be seen that these provisions materially modified the evils incident to the casualty of composition, and, probably, if all casualties had been, like those stipulated subsequent to the passing of the Act, of fixed amount, and payable at fixed periods, there would not have been

been much complaint on the subject. But all the uncertainties, both as regards amount and time of becoming payable, remain in the case of the many feus granted prior to 1874, and it appears from the evidence that very little advantage has been taken of the provisions of the Act of that year, which authorise the commutation of casualties, at the instance of the vassal. This would seem, *primâ facie*, to suggest that the terms of commutation provided by the Act must have been regarded as too high, though possibly the slight resort which has been had to commutation may have been to some extent due to other causes.

" 18. In addition to the hardship and inconvenience which must necessarily result from liability to any payment attended with such uncertainty, both as regards its amount and as regards the time of its becoming exigible, it has been represented to the Committee as a grievance severely felt in some places, that superiors have begun to exact casualties after having abstained from doing so for many years. It is quite intelligible that proprietors of feus should feel acutely a demand for payments which they have not expected, and which had not, in their previous experience, been demanded. But it must be borne in mind that on the occasion of the purchase of any heritable property in Scotland, it is usual, and indeed necessary, to have recourse to the services of a solicitor, and every solicitor is well aware of the liability to a claim for composition, unless he finds from the titles that that claim has been in some way acquitted or discharged, and it would be his duty to inform his client, the purchaser, that the claim might have to be met in certain contingencies. While, therefore, the strong feeling which arose in certain places, when the superiors began to look more closely to their rights, is quite intelligible, it would be difficult to say that what has occurred in these places would suggest the propriety of legislation, unless it was shown to be expedient upon more general grounds.

" 19. There appears to be now a prevalent consensus of opinion, both professional and lay, that it would be desirable to put an end to such payments as relief duty and composition, for reasons of general policy and public interest, and the question comes to be, should this be enforced by legislation, and if so, upon what terms ?

" 20. From what has been already said, it is plain that both these casualties are well known parts or adjuncts of the estate of superiority, and that Parliament could not be asked to abolish them without providing, in some form, a fair equivalent to the superior.

" 21. The purchase of superiorities has long been a favourite form of investment in Scotland, especially for trustees in charitable, ecclesiastical, and other trusts of prolonged endurance, and in the price given for them, regard has been had not only to the annual feu duties, but also to the casualties. Indeed, in some cases, where the feu duty has been nominal, or litlle more than nominal, the casualties have been of large amount, and have thus constituted the only valuable part of the estate of superiority purchased.

" 22. The first point to be considered is whether the abolition of the casualties in question should be optional either to the superior or to the vassal, or to both, or whether it should be compulsory, and the preponderance of opinion among the witnesses examined, is to the effect that it should be compulsory. The Act of 1874 has certainly failed to bring about commutation upon any considerable scale, and even if the option of claiming commutation was extended to the superior, it is very doubtful whether this would greatly enlarge the number of cases in which the casualties would be commuted. The Committee concur in the view that it would be desirable to provide by legislation that all existing casualties should be compulsorily commuted, and that even the stipulation for casualties of fixed amounts becoming due at specified periods, allowed by the Act of 1874, should be prohibited for the future, the sole payments to be hereafter stipulated to be made by the vassal to the superior in respect of the feu, to take the form of an annual feu duty,—provided always that a just basis for the commutation could be arrived at. Upon this essential point, however, as well as upon the question at what time the commutation should be enforced, a difference of opinion exists among the members of the Committee.

" 23. A of the Committee think that the basis of commutation of casualties becoming due on the death of the last-entered vassal should be the capital value of one casualty (in addition to any casualty which may have already become due), convertible into a permanent annuity, or addition to the feu duty, at the rate of 3 per cent. upon the capital value of the casualty, and that where the casualties are stipulated to be paid on each sale or transfer of the property, the rate of conversion should be somewhat higher, say 4 per cent. There seems to be a general agreement on the part of the witnesses, that if the commutation is made compulsory, the basis adopted by the Act of 1874, viz., in the ordinary case, a casualty and-a-half, and in the less common case, two casualties and-a-half, would be too high, as also that the rate of conversion there provided would also be excessive, and it appears to a of the Committee that the justice of the case would be met by taking the amount of one casualty, and converting it into an annuity upon a 3 per cent. or a 4 per cent. table, according as the casualty is payable only on the death of the last-named vassal, or upon each sale or transfer of the property. It was suggested that 2 per cent. would be a sufficient rate to be taken for conversion, as this was the rate enacted by the Statute of George II. for the commutation of the casualties of ward, marriage, and recognition—1 per cent. having then been awarded for the casualty of marriage, and 1 per cent. for the casualties of ward and recognition. In view, however, of the relatively rare events upon these casualties opened, and of other differences distinguishing them from the casualties of relief and composition, it appears to the Members of the Committee just referred to that 2 per cent. would be too low a rate of commutation to apply to the latter.

" 24. If this basis of settlement was adopted, the next important question would be from what date should the annuity, or addition to the feu duty, to come in place of the commuted casualty, be made payable, and it was suggested by some of the witnesses that the payment should not commence until the next casualty would have fallen due, if there had been no commutation, and reference was made to the Patronage Abolition Act of 1874, as a precedent for following this course. Under that Act, if the patron of the parish desired to claim compensation for the patronage abolished, he was required to apply to the sheriff within six months, to have the value of the patronage fixed, but the compensation awarded in respect of it was not to be payable until the cure became vacant. One of the reasons for postponing the payment in this case may probably have been that no other fund than the stipend existed out of which the compensation could be paid. and that the stipend would not be available for this purpose until a vacancy occurred.

" 25. It appears, however, to be in accordance with general principle and with justice, that where a right is abolished or commuted, the equivalent given for t should begin to run from the date of the abolition or commutation, seeing that if the commencement of the payment is postponed for, it may be 40, 50, or 60 years, this would infer a very large deduction from the value of the equivalent; a deduction, too, which could not be estimated with any approach to accuracy when the capital value of the right extinguished was determined, and which would further be subject to all the contingencies which now constitute the great evil of casualties becoming due at uncertain periods, and upon uncertain events.

" 26. Still, assuming the basis of commutation just mentioned to be adopted some difficulty must necessarily be encountered in estimating the capital value of the casualty upon which the annuity or addition to the feu duty shall be calculated, where, as in the ordinary case, the casualty becomes payable only upon the death of the last entered vassal. It appears to the Committee, however, that actuarial tables could be framed which, having regard to the age of that vassal and his expectancy of life, would show when the casualty would probably become due in consequence of his death, and that the capital value of the casualty which would then be payable could be converted into a present payment by rebating the interest applicable to the intervening period.

" 27. Where a casualty is payable upon every sale or transfer of the property, the probability of such sale or transfer might be estimated by reference to the experience of the frequency of transfer in cases of the class to which the one in question belongs, as it appears from the evidence that houses in towns are usually transferred oftener than considerable estates in the country, and that consequently casualties would become more frequently due in respect of properties of the former than of the latter class. This appears to be a kind of contingency with which an actuary could deal with approximate accuracy, by having regard to the date of the last transfer, and the proved frequency of sales or transfers in the particular class of property. The question has been considered whether a higher rate should be fixed for the commutation of casualties payable in respect of urban property than that which should be awarded in the case of rural property, in respect that the former changes hands more frequently than the latter, but there do not seem to be sufficient grounds for recommending that any difference should be made between the two cases.

" 28. It has been suggested, in view of the difficulty of arriving at a formula applicable to all cases while the particular circumstances of each may be materially different, that a Commission should be established by which all casualties should be commuted within a specified time, but the Committee do not think that it would be necessary to have recourse to that method of commutation. They are not favourable to the establishment of Commissions or analogous tribunals, if other means exist for accomplishing the object desired, and they believe that when the minds of actuaries have been directed to the subject, rules of practice would be established which would work sufficiently well. When these rules came to be generally known in the profession, the great majority of commutations would probably be carried out by arrangement between the superiors and their vassals, or their respective agents.

" 29. While these are the views entertained by a of the Committee in regard to the commutation of casualties, a feel themselves unable to recommend that immediate compulsory commutation should be enforced by legislation, partly upon the ground that many vassals would object to having an addition made at once to their feu duties by way of commutation of a charge which might not fall upon them for many years, and which possibly might never do so, and partly because it is, in their view, impossible to arrive at a basis of present commutation which could be fairly applied to all cases. One of the elements of uncertainty attaching to the problem of fixing a basis universally applicable, is that it cannot be known antecedently whether the next casualty which will become due will be relief or composition, and if it should turn out to be relief, the basis above suggested would appear to be too high. If the next casualty payable should turn out to be relief, the payment of it, *i.e.*, twice the amount of the feu duty, would probably enfranchise the property for a period which might be roughly estimated at 30 years, and it would be a hardship on the vassal to be during that time paying an annual addition to the feu duty calculated upon the basis of a composition. Again, there might, especially in the case of family estates, be a succession of entries of heirs, each of which would only infer liability for payment of relief duty, and in this case the

the hardship of enforcing a commutation upon the basis of a composition, would be largely increased.

" 30. This being so, it appears to a of the Committee that the best course would be to provide that compulsory commutation should not be enforced until a casualty of composition should become due, and they would recommend that it should then be in the option of the vassal either to pay the casualty in a capital sum, or to have it converted into an addition to the annual feudity, arrived at by taking 3 per cent. upon the capital value or amount of the composition. So far the arrangement would only provide for payment of a debt which had already accrued, due, *i.e.*, the composition, and the question would remain what allowance should be made by way of commutation of future casualties. Here, again, it is to be borne in mind that it cannot be known whether the next casualty will be relief or composition, and that consequently a commutation proceeding upon the basis of composition alone would be excessive. While it is difficult to average the chances of future casualties being relief or composition, it appears to a of the Committee that substantial justice would be done by providing that all future casualties should be commuted in respect of a permanent addition to the feudity, of say 1 per cent. on the amount or value of the composition which had already become due. This payment, beginning to run from the date of the first composition falling due after the passing of the Act of Parliament requiring compulsory commutation, would provide what would be in effect a sinking fund, to serve as an equivalent for all subsequent casualties, whether relief or composition. In this connection it is to be kept in view that it is still competent, prior to infeftment, to put forward the heir as formerly, and thus enable the true owner of the property, though a stranger, to obtain an entry upon payment of relief duty. This consideration favours the view that a somewhat low rate of interest upon the amount of a composition should be fixed in effecting a compulsory commutation.

" 31. Some evidence was given in regard to a point already adverted to, viz., the effect which the Conveyancing Act of 1874 has had in enlarging the rights of superiors by precluding a singular successor who had taken infeftment upon his conveyance, and thus become impliedly entered with the superior, from putting forward the heir of the last vassal to take an entry, and thereby escaping with payment of relief duty instead of composition.

" 32. There is no doubt that considerable hardship was inflicted upon vassals who had taken infeftment prior to the passing of the Act of 1874 without entering with the superior, seeing that when their infeftments were, by the operation of the Act, converted into implied entries, the fee was full, and it was no longer possible to put forward the heir. Since, however, the effect of the Act of 1874, as interpreted by decisions, has become well known, it has been in their power to avoid taking infeftment until they have made their arrangements with the superior by putting forward the heir or otherwise; and the hardship is further mitigated in some cases by the Act of 50 & 51 Vict. c. 69, s. 1. If the Committee had decided to recommend the immediate compulsory commutation of all casualties, this question would have ceased to possess much, if any, practical importance, but as they do not see their way to recommed such immediate compulsory commutation, they think it would be proper to restore the vassal by legislation to the position in which he stood prior to the passing of the Act of 1874, as regards his power to put forward the heir. This might be done by declaring that, notwithstanding the implied entry brought about by infeftment, the vassal should have right to put forward the heir under the circumstances in which he would have been entitled, prior to the passing of the Act of 1874, to do so.

" 33. Another question submitted to the consideration of the Committee was, whether it would not be desirable to provide for the conversion of leaseholds acquired for building purposes into permanent rights.

" 34. Although the ordinary tenure upon which land is acquired for building purposes in Scotland is feu, building leases, usually for a term of 99 years, are not uncommon in certain localities, and it has been the custom in some rural villages, and fishing communities, especially on the north-east coast, to build dwelling-houses upon land held without any written title, which would, in legal estimation, be held to import a right of lease from year to year only.

" 35. According to the law of Scotland, where buildings are erected upon ground held on lease, these buildings, in the absence of express stipulation to the contrary, become part of the soil, and belong to the proprietor, upon the expiry of the lease. In the case of long leases this is felt to be a hardship. If the lessee makes no new arrangement with the lessor and quits his holding at the expiry of the lease, he has to leave the buildings to the lessor without receiving any compensation for them. If, on the other hand, he arranges for a renewal of the lease, the existence of the buildings is taken into account, and he has either to make a capital payment, or to submit to an increase of rent in respect of them, under the new lease. If, again, he arranges for a conversion of his tenure into feu, he has practically to purchase at a capital price the buildings which he has himself erected, or to pay for them by a feu duty fixed at a higher rate than would have been exacted if the buildings had not in legal estimation belonged to the lessor. It appears from the evidence that in various localities in Scotland there is a considerable feeling that some legal remedy should be provided for this state of things, and that the lessee should be entitled to have his tenure converted into a permanent one upon fair terms.

"36. The other case, viz., that of buildings being erected upon ground held upon tenancy at will, and without any written title, is less common, though some rural villages, and the fishing communities on the noth-east coast of Scotland, afford illustrations of it. In neither case does it seem that the rights of the lessors have been unduly pressed, and although the lessees appear generally to have enjoyed practically, though not as matter of legal right, reasonable permancy of tenure, the evils resulting from insecurity of tenure are more or less felt.

"37. As it is well known that the erection of buildings, often of very considerable value, is common upon the north-east coast of Scotland, the Committee expected to have had more evidence upon the subject. The evidence submitted to them in regard to it was very slight, and consequently it was not thought necessary by those who may be supposed to represent the lessors' interest to adduce counter evidence. The Committee, therefore, would not feel warranted in proceeding much, or at all, upon the evidence which they have heard on this point, but would prefor to deal with the question upon considerations of general policy.

"38. As has been already stated, the ordinary tenure of building land in Scotland is feu, whereby a permanent right is acquired, and consequently the question of what is generally known of the enfranchisement of leaseholds is not so important in Scotland as it is in England, where the prevalent tenure of building land is leasehold. But the same considerations of public policy enter into the question as it arises in both countries, and in dealing with the Scotch case it is important to keep in view what has occurred with reference to the analogous case in England.

"39. The Royal Commission on the Housing of the Working Classes, in their Supplementary Report, recommended 'that legislation favourable to the acquisition on equitable terms of the freehold interest on the part of the leaseholder would conduce greatly to the improvement of the dwellings of the people of this country,' because 'the prevailing system of building leases is conducive to bad building, to deterioration of property towards the close of the lease, and to want of interest on the part of the occupier in the house he inhabits,' and because 'the system of building on leasehold land is the great cause of the many evils connected with overcrowding, unsanitary buildings, and excessive rents.'

"40. In like manner the Town Holdings Committee, in their final Report, recommended the local application of enfranchisement generally on the following grounds. 'After the statements made before us by various witnesses, we cannot doubt that the ownership by a working man of the house he occupies is one of the strongest inducements to those habits of life which make him a good citizen, and a useful member of the community, and that this stimulus is more strongly felt in the case of a man who has, or can obtain, the freehold than in that of a lessee for a term of years.' Further 'with regard, however, to improvements which lessees holding under existing leases may hereafter desire to make, a measure of enfranchisement would place such lessees in a better position by enabling them to acquire the freehold, before making the contemplated outlay. So far as the power of enfranchisement would promote such improvements, it may be looked upon as a benefit to the public.' They therefore recommended the local application of enfranchisement generally. It appears to the Committee that these considerations of general policy are applicable to Scotland as well as to England, and they therefore advise that provision should be made by legislation for the enfranchisement of building leases in Scotland, whether these leases are for a term of years or upon a tenancy at will.

"41. Two methods of bringing about this result might be adopted, either (1) by compelling the lessors to sell the value of their interest for a present capital payment, or (2) by providing that the lessee should obtain a permanent right of feu upon his becoming liable for such feu duty as would fairly represent the value of the rights which the lessor has in the subject when enfranchisement is claimed.

"42. The lessor might be required, upon receiving a notice from the lessee, to estimate the present value of his interest, the lessee desiring enfranchisement at the same time giving a statement of what he considers the fair value of that interest, and if they could not come to an agreement, the difference between them might be authoritatively and finally settled by statutory arbitration. The consideration to be paid by the lessee, whether it was a capital sum, as for an out-and-out purchase, or a feu duty, as for a permanent right of feu, could be easily settled by an arbitration tribunal.

"43. If the lease contained building restrictions, or obligations agreed to in the interest of the lessor as such, or in the interests of the adjoining lessees or other persons, such restrictions might be duly conserved, either in the conveyance which the lessor would grant to the lessee as upon a purchase for payment of a capital sum, or in the feu grant which he would execute if it was decided to convert the leasehold right into a feu.

"44. The next question to which the Committee would advert is one which has long excited much interest in various parts of Scotland. It is alleged that there are towns and villages situated upon the property of proprietors who do not desire the extension of the towns or villages, and decline to give land, either for building houses or for industrial purposes, in their vicinity, either absolutely or on lease, except upon prohibitive terms. The effect of this is said to be not only to prevent the natural expansion of such communities, but to lead to their decay, as in these days, if a community does not advance, it is almost certain to retrograde.

"45. Such

"45. Such a state of things is, in the judgment of the Committee, a public evil demanding remedy by legislation.

"46. The remedy which the Committee would suggest is that the local authority, whether town council, county council, or other elected body, should be empowered to purchase land by agreement, or compulsorily, for the purposes either of building dwellings for occupation by workmen or other persons, or of otherwise providing for the present or prospective development of the town or village. It appears to the Committee that, subject to the review or control immediately afterwards suggested, considerable latitude might be left to the local authorities, both as to the purposes for which the land might be acquired, and as to the manner in which it should be dealt with when acquired, whether by letting on lease, feuing, or selling to the persons by whom it was to be occupied. It might be provided that before a local authority should proceed to acquire land for the purposes in question, it should issue notices to apprise all persons interested of what was proposed, and that any ratepayer within the area of the local authority should be entitled to represent to the Secretary for Scotland, or to the Board proposed to be constituted under the Local Government (Scotland) Bill now before Parliament, against the contemplated acquisition of land. If, in the judgment of the Secretary for Scotland, or the Board, sufficient grounds should be established for prohibiting the proposed acquisition, the Secretary for Scotland or the Board should have power to prohibit it.

"47. Machinery for the acquisition of land, simpler and less expensive than that prescribed by the Lands Clauses Acts, might be provided, as has been done in the Parish Councils Act for England, in the Local Government (Scotland) Bill, and in other Bills now before Parliament.

"48. A question has been raised as to whether provision should be made for the compulsory acquisition of land for building dwelling-houses for public officials. The Committee hope and believe that very few proprietors in Scotland would decline to give, upon reasonable terms, land which might be required as sites for dwelling-houses for the public officials concerned in the administration of justice, the investigation of crime, and the preservation of the public peace, and they would not feel warranted in making an affirmative recommendation in the direction sought, in the absence of evidence that it is necessary.

"49. A question of much practical importance, and of no small difficulty, has been brought under the notice of the Committee, in regard to a hardship complained of by feuars of building ground in Motherwell, Hamilton, and other places where the industry of mining is largely carried on.

"50. It appears that in early times, when mining was not prosecuted to the extent, or in the manner in which it is now, it was usual to make no mention of minerals in feu grants given off for building purposes, or at least that such grants frequently contained no mention of minerals. The effect of this was to make the vassal proprietor of the ground *a caelo usque ad centrum*, including the minerals, and it was in his option whether he should leave the minerals in the ground, as a support for the surface and any buildings which might be erected upon it, or work them out wholly or partially; in other words, he could sacrifice the minerals to the surface, or the surface to the minerals, as he pleased.

"51. It afterwards became usual, in making such feu grants, to reserve the minerals to the superior, but to stipulate that the vassal should be entitled to receive damages for any injury which the surface, or the buildings upon it, might sustain in consequence of the minerals being worked.

"52. But for more than 20 years it appears to have been the practice, according to the prevalent style of feu grants for building in the localities in question, to take the feuar bound to erect and maintain a dwelling house, or other structure of a specified value, upon the ground feued, to reserve the minerals to the superior, and to provide that he should be entitled to work them out completely, without being liable to the vassal for any damage which might be thereby caused to the surface of the buildings upon it.

"53. Side by side with this change in the style of charters or other feu grants, there came to be an alteration in the ordinary methods of working the minerals. The mode of working usually adopted till about 50 years ago was that commonly described as the old method of stoop and room. This consisted in taking out a considerable portion of the mineral, and leaving the rest permanently in the ground in the form of stoops or pillars, which generally proved sufficient for the support of the surface.

"54. The method of long wall working was next introduced, in which the whole mineral was taken out, and the waste propped and packed as the work proceeded. Where the mineral was so worked, the surface usually came down, but upon a more or less even plane, causing much less damage to the surface than the mode to be immediately mentioned.

"55. Lastly came the modern method of stoop and room working, in which a relatively small proportion of the mineral is taken out in working forward, large stoops or pillars being then left, which, however, are wholly taken out in working back, so that when they are removed no support remains, and the surface comes down, frequently causing serious damage to the buildings upon it, and sometimes bringing about their destruction.

"56. Some idea of the extent of the subsidence may be gathered from the fact that it was stated in evidence that there are about 12 seams in the Lanarkshire coal-field, of which only four have as yet been effectively worked, but that the thickness of these four and the conquent vacuum of waste left by their being wrought out, is about 20 or 21 feet. Probably the surface would not come down to this extent, but it is not surprising that where such a large measure of support is withdrawn, it should descend, with the result of causing serious injury to the buildings upon it.

"57. The grievance felt in the Motherwell and Hamilton district and other places is that in consequence of all the available building land being in the hands of a small number of proprietors, persons whose businesses compel them to live and work there are obliged to take feus on such terms as the proprietors may dictate. They complain that they should by the terms of their feu grants be bound not only to erect, but to maintain, buildings upon the surface, and yet that they should be obliged to submit to these buildings being seriously injured, and possibly destroyed, without their receiving any compensation, and further that, although this injury or destruction might occur time after time, they would, by the terms of their feu grants, be bound as often to re-erect the buildings. It appears to the Committee to be established that the grievance is serious, operating hardly upon individuals as well as public bodies, and likely to create a feeling of dissatisfaction with the law which permits such things. The grievance seems to be confined to a comparatively limited area, practically to the western coal-fields of Scotland.

"58. It was at one time made a question whether the stipulations of such grants did not involve such repugnancy as to liberate the feuars from their obligations under them, but in the case of Buchanan *v.* Andrew, 11 M. (H L.), p. 13, it was authoritatively decided by the House of Lords that, as the contracts were voluntarily entered into, they must receive effect according to their terms, however great the hardship may be.

"59. Various suggestions have been made for meeting the grievance, and the Committee have had the advantage of considering Mr. Donald Crawford's Bill (No. 157, of 1893) on the subject. One suggestion made in that Bill is, that notwithstanding the express surrender by the vassals of their right to support, the superiors should be compelled by law to leave reasonable support, or at all events to prosecute their mineral working in such a way as to minimise the damage to the surface and the buildings upon it. In dealing with the suggestion that the Legislature should interfere to enforce the leaving of support for the surface and the buildings upon it, it is necessary to keep in view not only that the vassals voluntarily surrendered the right to support, but that the quantity of mineral which would require to be left, in order to provide adequate support, would be very great, and that the result would be to deprive the superiors of a large amount of mineral rents or lordships, as well as seriously to diminish the sums paid in wages to persons engaged in and about the business of mining, and to prevent the mineral wealth of the country from being duly developed.

"60. There is no doubt that in many cases the value of the mineral is much greater than the value of the surface, and that consequently while both are in the same hands, the proprietor not infrequently sacrifices the surface in order that he might be able to work out the minerals. It was stated in evidence that, in order to provide adequate support, from two-thirds to three-fifths of the mineral would require to be left unworked, and that, especially in the case of isolated buildings, the quantity of mineral requisite to support such buildings would, as regards value, largely exceed the value of the surface and the buildings upon it taken together.

"61. Evidence was given to the effect that at a depth of 80 fathoms, where the splint coal is being wrought, it would be necessary to leave 115,000 tons, valued at 10,000*l.*, to support half an acre of building ground, and that if the Pyotshaw, Main and Splint seams at Motherwell had to be worked so as to furnish support to the surface, the loss would be about 1,000*l.* an acre. It was further stated that in the case of the Bent coal-field at Hamilton, extending to about 300 acres, about 105 acres of mineral would require to be left in the ground, or only partially worked, in order to support the buildings now on the surface, implying that about 2,000,000 tons of coal, worth upwards of half a million sterling, and inferring a loss of about 300,000*l.* in wages, would require to be sacrificed; as also that on the renewal of Mr. Watson's lease in 1887, pillars of coal were reserved in the seams which had been worked, with the view of giving the feuars the opportunity of purchasing them at a price of 240*l.* an acre, but that this offer was not accepted.

"62. In addition to the damage done to the buildings, it was alleged that gas and water pipes had been cracked and broken by the subsidence of the ground, and causing pecuniary loss and danger to the public health, as also that the existing state of things led to a difficulty in obtaining houses for workmen, with the result that there was much over-crowding, attended by insanitary conditions and moral dangers.

"63. It was on the other side represented that the amount of injury caused by the mineral workings had been much exaggerated, that feus for building continued to be taken off in considerable numbers after the effects of the workings had become generally known, and that any serious interference with the extraction of the minerals would be detrimental to the localities affected, as these are (it was said) chiefly dependent upon mining and the industries associated with it.

"64. The

" 64. The Committee feel that it would be a very serious thing for the Legislature to interfere at the suit of private individuals who had made such agreements with their eyes open, to prevent the mineral wealth of the country from being fully developed, and they are therefore indisposed to recommend that Parliament should enforce the leaving of any part of the minerals in the ground, with a view of supporting the surface, where the vassals had by express contract renounced or surrendered their right to support. Most of the witnesses who came forward to complain of the existing state of things appeared to be satisfied that it would be inexpedient to prevent the minerals from being fully worked out.

" 65. It was, however, suggested that if the minerals were fully worked out, with the result of causing damage to the surface and the buildings upon it, Parliament should enact that the superiors working out the minerals should be bound to compensate their vassals for this damage. This seems to the Committee to raise a different and more difficult question. It is not disputed that the claim for damages would be quite reasonable if the vassals had not expressly renounced the right of support, and agreed that the superiors should have power to work out the minerals without paying them damages for any loss or injury which they might thereby suffer, but it is said that where the vassals have so agreed, there is no reason why the bargain which the parties thought fit to make with each other should be disregarded, there being nothing immoral or contrary to public policy in it, that the vassals presumably got their feus cheaper than they would otherwise have done in consequence of having renounced their right to support and to damages; as also that in view of the fact that the minerals were in many cases of much greater value than the surface, the superiors would not have granted the feus at all, except upon condition that they should be entitled to work out the whole minerals, without paying to the vassals compensation for damage done to the surface. It is, however, to be kept in view that in dealing with what may be described as a monopoly of land, the Legislature has, in some cases, insisted that agreements should be equitable, and provided that if they were inequitable they should not be enforced. Illustrations of this will be found in the Agricultural Holdings Acts. The damage now under consideration is capricious in its incidence—it affects some buildings very seriously, and others scarcely appreciably, if at all; and persons seem to take feus in the hope, if not in the expectation, that it will not affect them. Further, the profit derived by the superiors from working out the whole minerals is large, and it does not appear that any great inroad would be made upon it if the superiors were required to make good the relatively small amount of damage which would require to be paid if the common law right to damages renounced in the feu grants was restored by Parliament. Upon the whole, a of the Committee think that there is ground for the Legislature interfering to reinstate this common law claim to damages, though not for prohibiting the working out of the minerals, both in the case of past and future feu grants. The minority dissent from this view, in so far as it relates to feu grants already existing, but think that it might properly receive effect as regards future feu grants.

" 66. What has now been said sufficiently indicates the view which the Committee take of the suggestions put forward in Clause 1 of Mr. Crawford's Bill, *videlicit*, that where land has been or shall be feued or let upon a condition that buildings were or are to be erected thereon by the vassal or lessee, any contract or agreement purporting (*a*) to entitle the superior or lessor to do, or authorise to be done, any act whereby such buildings may be injured, which, but for such contract or agreement, he would not have been legally entitled to do; or (*b*) to release the superior or lessor from any liability to pay damages for doing injury to such buildings, or authorising any act whereby injury was caused to the buildings, which, but for such contract or agreement, he would have been liable to pay,—shall be void.

" 67. The Committee understand that Clause 2 of Mr. Crawford's Bill is not intended to compel the superior or lessor to resume possession of the land with the buildings thereon, on payment of the value of the buildings, as a condition of his being entitled to work the minerals, but only to provide that if the superior should be desirous of working them without incurring liability to the vassal or lessee for any damage thereby caused, in the event of the Legislature interfering, as above suggested, to reserve or reinstate the claim of the vassal or lessee to reparation in respect of his property being injured by the mineral workings, he shall be entitled to resume upon the terms specified. In other words, the clause is a provision in favour of the superior or lessor, not of the vassal, or lessee, and it appears to the Committee that, so regarded, it is unobjectionable.

" 68. It further appears to the Committee that the Legislature might properly declare that the provisions of such feu grants shall be invalid, in so far as they involve a repugnancy, and in particular in so far as they purport to impose an obligation upon the vassals to rebuild their houses or other erections after they had been destroyed by mineral workings, especially as the obligation would, according to its terms, bind the vassals to re-erect the buildings as often as they might be brought down by the mineral workings. The considerations which prevailed with the majority of the judges of the Court of Session in the case of Buchanan, &c. *v.* Andrews, 9 M. 554, would warrant such a statutory interference with the grants. It is, however, to be observed that little, if any, practical advantage would accrue to vassals from legislation, limited to this point, as buildings are seldom totally destroyed by mineral workings, and it has not been proved that in any such case the superior has called upon the vassal to rebuild.

" 69. Evidence was submitted to the Committee in favour of a better statutory provision than that which now exists for the commutation of multures payable under feu charters in two towns. It would not be within the reference to this Committee to enter upon the

establishment of manufactures at Elgin, and another for a woollen mill at Newcastleton; no local effort in either case appears to have been made to accomplish these objects, and the Committee do not consider that sufficient evidence has been tendered on either point to warrant them in considering the questions raised in making any recommendations which could be of general application"—(Mr. *Renshaw*).

Question, That the proposed paragraph be inserted in the Report,—put, and *negatived.*

Amendment proposed, That the following new paragraph be inserted in the Report:—

"Several Members of the Committee expressed the view that the terms of commutation and the rates of interest recommended in the preceding paragraph may be unduly onerous to feuars in many parts of the country"—(Sir *John Kinloch*).

Question, That the proposed paragraph be inserted in the Report,—put, and *agreed to.*

Question, That this Report, as amended, be the Report of the Committee to the House,—put, and *agreed to.*

Ordered, To Report, together with the Minutes of Evidence and an Appendix.

EXPENSES OF WITNESSES.

NAME OF WITNESS.	PROFESSION OR CONDITION.	From whence Summoned.	Number of Days Absent from Home, under Orders of Committee.	Allowance during Absence from Home.	Expenses of Journey to London and back.	TOTAL Expenses allowed to Witness.
				£. s. d.	£. s. d.	£. s. d.
Rev. J. A. Smith - -	Minister - - - -	Newcastleton, Roxburghshire.	3	3 3 -	4 11 6	7 14 6
Thomas Simpson - -	Shoemaker - - -	Newcastleton, Roxburghshire.	3	2 5 -	2 15 -	5 - -
				TOTAL - - - £.		12 14 6

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MINUTES OF EVIDENCE.

Wednesday, 18th April 1894

MEMBERS PRESENT:

The Lord Advocate.	Dr. MacGregor.
Mr. Baird.	Mr. Maxwell.
Mr. Donald Crawford.	Sir Charles Pearson.
Mr. Dalziel.	Mr. Renshaw.
Captain Hope.	Mr. Thomas Shaw.
Sir John Kinloch.	Mr. G. A. L. Whitelaw.

THE LORD ADVOCATE IN THE CHAIR.

The Rev. JOHN ANDERSON SMITH, called in; and Examined.

Chairman.

1. YOU have been Minister of the Free Church at New Castleton for how long?—About 18 years.

2. Will you describe exactly where New Castleton is in order to get it on the notes?—In Roxburghshire just on the borders of Cumberland and Dumfries.

3. Will you describe the size and character of the village as regards population and industry?—There are about 900 population.

4. What are they chiefly engaged in?—Little crofts except the various tradesmen that are required for the rural district.

5. The trade is incidental to a rural community, is it not?—Just so.

6. The population you say is about 900. How many heads of families would there be, do you think, amongst those?—There are close upon 200 houses.

7. I think there are some views entertained there in regard to the question of the tenure of land which you desire to lay before us. Will you tell us what the conditions experienced are, and what the matters they desire to put before us are?—I might begin by saying that leases of land were given to build houses upon.

8. Are those houses built upon ground held upon leasehold tenure, not on feu?—On leasehold.

9. Are there any feus at all or permanent rights in the village?—No.

10. About how long ago is it since those leases were granted?—About 100 years.

11. What was their duration?—Ninety-nine years. Some are out, and some are not out.

Chairman—continued.

12. Were they granted about the same time?—Yes.

13. And have some run out, and are others on the eve of running out?—Just so.

14. Will you tell us what difficulty has been or is being experienced by the leaseholders on the lease running out?—The property falls into the hands of His Grace the proprietor.

15. Whose property is it?—The Duke of Buccleuch's.

16. And on the expiry of the lease their right is at an end in law, is it not?—Yes.

17. And the buildings as matter of law fall to the Duke as proprietor of the ground, do they?—Yes.

18. Has there been a desire on the part of these leaseholders, or any of them to obtain renewals of the rights upon any tender or upon any terms?—They are very anxious to sit still, and have felt it hard for them either to give up their property or to go away.

19. They desire to remain, do they?—They desire to remain.

20. Upon what terms do they desire to remain?—That would be a matter of arrangement.

21. But what would they desire?—They offered some time ago to increase the feu duty by threefold.

22. It was a rent before, was it not?—Yes.

23. Then do they wish to convert it into a feu?—Yes.

24. Do they then desire that in place of long leases they should get permanent feu rights?—Yes.

Chairman—continued.

25. Has his Grace been disposed to grant permanent rights?—Yes; just recently he has offered those, and he has offered the houses at a redemption of three years' purchase of the rental, which certainly is a very small sum, if you were in Hawick or Langholm or anywhere else, but in New Castleton this sum of money it is beyond the people's power honestly to pay.

26. Will you tell us as to feu duty what terms has his Grace been willing or proposed to give as compared with the old rent?—A stance on which the house is built and garden; that is, 4*s.* 6*d.*

27. About what area or extent were these holdings usually?—About an eighth of an acre.

28. Are they all about the same?—Yes.

29. Can you tell us about what was the ordinary rent in the last 99 years, for this holding of an eighth of an acre?—Four and sixpence; it rises and falls a little; some of them are 3*s.* 9*d.*, or perhaps 4*s.* 3*d.* Some of them are a little more or a little less, according as the land was divided. You know it is a holm or haugh, and that land has been divided into squares or plots, and some of it is larger than others.

30. Then is the current rate about 4*s.* 6*d.*?—From 25*s.* to 30*s.* an acre, I think, is the rate at which it was granted. Now the Duke offers it at 10*l.*

31. At 10*l.* a year, do you mean?—Yes, at the rate of 10*l.* a year.

32. For how much?—Per acre.

33. At the rate of 10*l.* annual feu duty per acre?—Yes, and other parts of the villages lower down at 5*l.* The price rises from 5*l.* to 10*l.*

34. So that you have got practically to get the amount of the feu duty at which the stances are offered, and you would divide sums ranging from 5*l.* to 10*l.* by about 8*l.*, so that that would be the measure, would it?—Yes. One that cost 4*s.* 6*d.* is now raised to 25*s.*; that is the increase.

35. Besides the permanent feu duty at the rates you have mentioned, does his Grace require as a condition of renewal, a purchase from him of the house?—Yes, at three years redemption.

36. Is that on the new feu duty?—No, according to the valuation roll.

37. Does that mean of the house, separate from the rest of the holding; the holding is put in at one annual rent, is it not; do you mean that the house is entered at a separate value or that the holding is put in at one value on the valuation roll?—The house and garden go together.

38. That is the whole thing, is it?—I am afraid I do not quite understand you; along with the house there are the fields.

39. But they are not included in the eighth of the acre?—No.

40. We are dealing with the eighth of the acre. Tell us about that. Is the three times the annual rent of the eighth of the acre, with the house upon it, the price which is asked as the price of the house?—Yes, the house is redeemed at three years' rental.

41. Then you mean the eighth of the acre, with the house upon it, do you?—Yes.

42. At the annual value entered in the valuation roll?—Yes.

43. Is this what you mean to say. In telling us about the holding of the eighth of an acre held on those long leases, you are not referring, as I understand, to any land that is under cultivation as a croft?—No.

Chairman—continued.

44. But merely to the house and the garden?—Merely to the house and the garden.

45. And what you have told us has all been about that, has it?—Yes.

46. Then do you say that, as a condition of repurchasing the house, those who were leaseholders, whose leases have expired, are asked to pay three times the valuation roll value of that holding?—That is so.

47. Which means the rent or lettable value of the eighth of the acre with the house upon it, as it appears in the valuation roll, does it?—Yes.

48. Can you give us any idea of about how much, on an average, the annual rent or value is which appears in the valuation roll?—An average of 4*l.* or 5*l.* a year. It depends upon the size of the house.

49. Will you please tell the Committee what is the prevalent, or the average character, as regards size, strength, and condition of those houses at the expiry of the long leases?—There is a room and kitchen, and a mid-room, generally.

50. Are those houses generally old, and are they houses that were built at the commencement of the leases generation?—Generally they are; there are a few which have been renewed, and some of them were built more substantially than others.

51. Are they generally stone and lime, or not?—Yes, but the first ones built would be built of cobbles; that is, stones lifted out of the bed of the river.

52. Round water stones?—Yes.

53. Was there much lime in them a hundred years ago, do you think?—No, and there is very little now.

54. Are they thatched or slated?—All slated.

55. You were going to say that some had been rebuilt within a hundred years, were you not?—A very few of them have.

56. In what form have they been rebuilt?—Just enlarged.

57. Are they two storeys?—No, not many of them; two have been.

58. Are they generally used for the personal occupation of those who were leaseholders and who now desire to become holders?—A number of them are, generally; generally they are, but a number are sub-let. One proprietor may have two or three houses for the sake of the land; he wants to be a larger crofter perhaps, and he has bought a house and can then farm perhaps four acres instead of two.

59. What is about the extent of the croft originally associated with each of these holdings?—For the one-storey houses there were two acres of cow's grass on the common.

60. An outrun, as it is called in some parts of Scotland?—Yes; but we call it a common. Then there are two acres for the hay and potatoes besides that, Scotch measure.

61. Is there not much corn grown?—At one time there would be, but not now.

62. At all events, there are two acres under the

Chairman—continued.

the plough, are there?—Yes. Then some own, perhaps, two or three houses; they do that for the sake of having the crofts themselves; and they would sub-let the houses to a railway man or some others. The railway has gone through since that was a village, and tradesmen have come there, and perhaps a railway porter or a service man would have houses in the village.

63. Except in such cases as those, are the houses generally in the personal occupation of those whom we call the crofters?—They are

64. Have they any choice as to getting holdings elsewhere?—No.

65. If they do not get the house on some terms, is there any place else where they could go to unless they abandoned the croft and go away from the place?—That is so entirely.

66. What is the condition of the houses generally at the outrun of the lease as regards repair and character; have they generally been good or not?—They vary very much. Some of them would crumble about you if you took the wall paper off. They would not fall: they are not strong enough to fall down.

67. And is the three years' redemption asked for these as well as the others?—Yes; all alike.

68. Would the rental vary according to their condition?—According to the rental on the roll.

69. But it is suggested that the rental in the valuation roll would vary according to the condition of the houses; would it?—Yes. Some of the rents are 5*l.* and 6*l.* on the valuation roll, and some are as low as 3*l.* 10*s.*; I gave you 4*l.*, I think, as an average.

70. What is the feeling amongst the inhabitants of the village on the question of the terms on which they are asked to renew?—They think they are very, very harsh; and those who live on the land and by the land find it utterly impossible to pay any other body if they pay the bonus or redemption price.

71. Do you mean that, as regards outside traders with whom the people have to deal, they would have no means of paying them?—They could not.

72. Do you mean that it would drive them to insolvency?—Yes, if a man can be insolvent for 12*l.*

73. Do you mean if they paid the landlord, they would not have anything to pay the butcher, and grocer, and baker?—That is the chronic state of many at this moment; while paying the Duke his yearly rent they have left standing the butcher and baker unpaid, and they have to go and borrow from time to time every year. It is a chronic state of matters and they would rather almost die than fail to meet his Grace's Chamberlain on the rent day. They have come to me. To give you a practical illustration, and one out of many on their last rent collection, one came to me and asked me to lend him money to meet the Chamberlain on the Thursday, and he said, "Mr. Smith, it is just for three days, you know; on Tuesday, I will have the price of my stirks coming in." I said, "What is the use of your coming to borrow money of me for these four days; send the money afterwards." "And not meet his

Chairman—continued.

Grace's Chamberlain?" he said. They would rather do anything, I tell you, than not meet the Factor on the very day.

74. Have you any view as to whether they are or are not able to pay the terms that are asked from them for renewal?—The crofters are not able without impoverishing themselves entirely or borrowing the money.

75. Is there any feeling with regard to the cost of the new charter?—I presume you are looking at the evidence that was gathered.

76. I am looking at papers that were sent to me of what you were prepared to say?—Since then there has been a renewed offer, the charter has been modified.

77. Will you let us hear about that?—It is modified to the extent of 2*l.* odd.

78. What is modified?—The Duke was charging 6*l.* 18*s.*, I think.

Mr. *Thomas Shaw.*

79. Do you mean for law charges for making the charter?—Yes; then there was the price of the plan. It came altogether to about nine guineas.

Chairman.

80. Do you mean independently altogether of what was to be paid as feu duty or price?—Yes, only for the law expenses of giving them a title.

81. That would be, you say, about 8*l.*?—Yes, above 8*l.*, but now there is a reduced offer.

82. Were they able to pay that in addition to the other things?—They could not unless they sold off their cattle or stock.

83. If they sold off their stock, would there be anything to live upon or pay for their feu duties?—Nothing; they had nothing to live upon.

84. Do they live, in fact, except the tradesmen you have mentioned, by cultivating the crofts?—They do, and working the best way they can by buying and selling from one another.

85. In mentioning what you have told us, are you expressing what you know to be the general feeling throughout that community?—Yes.

86. Have you any suggestions to make as to how that condition of things should be met either by legislation or otherwise. Have you anything to say as to what you think would be fair and just between the Duke on the one hand and the long leaseholders on the other?—Allow me also to say that there has been another offer made lately; not only has the cost of the charter been reduced, but there is a suspension offered for 35 years on the present conditions.

87. Do you mean that the leaseholds are offered to be continued for 35 years as leaseholds?—Yes.

88. And on the present terms?—Yes, just as they stand.

89. Is that a general offer to all the long leaseholders?—Yes.

90. To the whole village?—Yes.

91. What do they say to that?—There are a number of them greedy for it; they were afraid they were going to be turned out, and they have just jumped at it.

Chairman—continued.

92. Are they closing with that offer?—Yes, largely.

93. And is the offer open to them all?—Yes.

94. Before this amended offer came out, the ultimate offer or last offer, of which you have told us, had anyone agreed to become a feuar?—Yes.

95. Had some?—Yes, a good many.

96. How many?—I have been told there were 26.

97. Who had become feuars?—Who had become feuars. I beg your pardon, not become, but had intimated that they would become feuars.

98. But have they actually become feuars?—They have withdrawn.

99. Then does it come to this; is it open to everybody in the village to take the terms of a 35 years extension of the long leases upon the old terms?—Yes, open to everyone.

100. Are they satisfied with them?—Yes.

101. Then if they get that, do they think they have much to complain of. That is to say, if they get the extension of the long leases on the old terms for 35 years, are they satisfied?—Many of them are.

102. What would the others like?—It is just putting off the evil day. When the 35 years are exhausted, they will be just where they are now, and the houses will require to be repaired and rebuilt, and the question is, will a man build a house for 35 years only.

103. Would they like feus?—Yes, most of them would—they have that opportunity of course.

104. What do they think would be fair terms for feus?—They would pay the feu duty which is asked, but they do not want to pay the bonus, the redemption money.

Mr. *Renshaw.*

105. Are we correct in understanding you to say that these individuals are unable to pay the 8*l.*, or 10*l.* or 12*l.*, which it is suggested they should pay as the capital value of their house property but that in the event of their, getting leases continued to them for 35 years they would be in a position to build houses?—They would have to keep them up in some way or they would fall down.

106. I think you said just now they would be disposed to rebuild them?—Some of them must be rebuilt, but if they get a permanent feu they could go to the bank and get money on their feus, and the builders could borrow money upon the houses.

107. They could get credit, could they?—Yes.

Chairman.

108. On the heritable security?—Yes.

109. Which, with the expiring leaseholds, they would not be able to do at the Scotch banks?—No, the banks would not receive it. There were a good number prepared to do so; they were prepared to borrow, and they were prepared to sell their stock in order to pay this bonus, because they could not rise and go away, as they were tied to the place. They could not leave it, they must redeem; and how could they

Chairman—continued.

redeem but by disposing of their stock and borrowing money, and if they disposed of their stock they would not have the wherewithal to live.

110. What is the amount of stock which a man has who has one lot of two acres?—That would be a cow, and its follower.

111. Would that be all?—That is all the ground would bear; but they go to the sheep farmers in the hills, and make hay.

112. As labourers?—They do it for kind. They set up, perhaps, eighty ricks, and get half of them. They make hay on the hill, leave one-half to the farmer, and take the other half away; that enables them to carry a great deal more stock.

113. Then the cow and its follower would be the normal stock. As a matter of fact, what amount of stock would those who do work for the farmers, and get half the hay they make on the hill, have?—It varies largely; it depends on how many days they go to the hill.

114. Give us an average?—Some of them would have, perhaps, six or seven cows; not all milkers.

115. Do they keep sheep?—No, not during the summer; they take in hogs for wintering.

116. How many wintering hogs will a man who has two acres, with the other privileges you have mentioned, take in?—Five or six, at the outside.

117. That would be from the upland farms, I suppose, would it?—Yes.

118. To bring it to a practical bearing now that the offer to continue the leases on the old terms for 35 years has been made, are the objections which were felt at the time the communication was sent to this Committee a good deal removed, or are they still, some of them, remaining?—As regards the houses do you mean?

119. Yes?—If it is a good house, and it will stand for 35 years, there is no complaint; but where the house must be rebuilt then there is complaint.

120. Would they like a longer term of lease, or would they like a feu upon easier terms?—They would like a feu upon easier terms.

121. Have you any suggestion to make as to what that should be?—If there was an increase of the feu, but no bonus.

122. Do you mean an increase in the feu to the amount proposed in the offer?—Yes, that is a very fair thing, I think, although it is heavy. They themselves suggested threefold, but it has gone up far higher; but I think it is a very fair thing.

123. What about the 8*l.* for the plan and charter; that is reduced by 2*l.*, is it not?—It would cost them about 3*l.* fully or 4*l.* before it is recorded.

Mr. *Baird.*

124. Is it half paid by the landlord and half by the feuar?—By the conditions that were sent out by his Grace, all the expenses were thrown upon the feuar. In Scotland the usual way is half-and-half; but in this case everything is thrown upon the feuar.

125. Are you quite sure of that?—I am quite sure of that.

126. I see

Mr. *Baird*—continued.

126. I see this offer to relet is dated 1893, but no other date was given; do you know when it was issued?—About the end of the autumn.

127. I do not see anything of the redemption of the houses in this document?—That was contained in a separate notice. I gave you a figure of 4*l.* as the general rent for an ordinary house, but some of the houses rise up a good deal higher. One would amount to some hundred odd pounds for redemption. There are shops, for instance, at 40*l.* a-year, and that would be 120*l.*

Mr. *Renshaw.*

128. You gave us the total number of houses as 200, did you not?—At less.

129. Can you tell us what the total valuation of the village is, or can you send that up to the Committee?—Yes, I can send that up.

Chairman.

130. Is there anything else which you desire to bring under the notice of the Committee regarding this matter?—Their means of livelihood is the croft; the croft was given along with the stance when it was given off to be built upon, and that is the only means of livelihood. They have the right morally, and they think legally, to this croft, but they are denied that right. It has been taken from many of them and given to others.

131. What do they pay for the croft?—It varies so much; if you had improved your land, you would be paying a very high rent: if you left it as you got it, you would be getting it as low as 4*s.* 6*d.* an acre.

132. You have explained to us that the building stances of an eighth of an acre were upon 99 years' leases?—Yes.

133. Upon what tenure were the crofts themselves?—The crofters believed that the crofts were on the same terms.

134. But were they merely at will, as we should call it, or from year to year?—They deny that, and the point was never called into question until recent years. You will understand that round about there were various hamlets, and Duke Henry, as I have received the history, planned this village to bring the people in from the various hamlets round about, and he gave land to every one who would come in and build a house. One man built 13 or 14 of these houses, but when he was building his seventh, he turned to his Grace and said, "But, my Lord, what about land for this other house?" and he said, "Go on, I will give you land for every house if you build 50 of them."

135. I suppose the old leases will still be extant?—Not one, I do not know of one; I have never seen them, and I have inquired.

136. But they will be recorded in the Duke's books, will they not?—I do not know.

137. Is the subject of a lease defined in that lease, and would anybody reading the lease see whether what was let to him was the eighth of an acre, or whether what was let was the eighth of an acre with a piece of agricultural land on the hill; that must have been clear on the lease?—That is not to the fore.

138. Have they been lost?—There is not one has a copy. There is an old copy of a transfer where perhaps a house was sold 70 years ago and the transfer is in hand.

Chairman—continued.

139. Has his Grace either always or generally allowed the long leaseholders to continue in possession of the crofts, or has he taken away the crofts to any extent while the long leases of the building stances were current?—With a few; that was the grievance.

140. What was the reason as to those few?—I am not perhaps at liberty to suggest motives, I cannot suggest motives. That is a very sore thing, taking the land from the people is taking away their livelihood.

Sir *Charles Pearson.*

141. What is the most recent instance of the occurrence which you are now alluding to, of the crofts being taken from a long leaseholder?—Perhaps 14 years ago, it may be less or more.

Chairman.

142. Were there many such instances?—There are half a dozen or so, I think.

143. Within what time?—There would be about half a dozen at that time. I forget the year it was done in; it was done in my own time, 14 or 16 years ago.

144. What was done with these crofts which were so taken away?—They were given to others.

145. And what had the long leaseholder to live on after that?—He had to live by his work or his wits; I do not know. He was not working the croft perhaps; perhaps it was one who had gone out of the place and let his house, and in that case they took the land away, the house became of no value, and some of them would drop down because of that.

146. I thought you said just now that may be in some of these cases the man had let his house and croft to somebody else?—Yes.

147. Can you tell the Committee if there have been any instances within your recollection and knowledge where a man occupying his building stance and occupying his croft has had his croft taken away from him; has anything of that sort ever occurred?—No; I do not know of anything of that kind occurring, it is not within my knowledge.

148. In these new arrangements which have been proposed first for feuing and then for continuing the long leases, has anything been said about the crofts?—No, the crofts are now claimed as being let from year to year. The tenants deny that and say that they belong to the stances, and it stands to reason no one would come into the village to build a house unless they had something to live upon, and there was nothing else to live upon but the croft they got.

149. It was exactly that consideration that led me to ask you the question whether, when the new arrangements were being made, anything was said about the crofts?—Nothing.

150. That was left vague, was it?—That was left vague.

151. Is there anything else you wish to place before the Committee in regard to New Castleton?—There are a number of privileges which

Chairman—continued.

the people used to enjoy. His Grace used to keep up all the roads out to the fields, but those are not being kept in repair now. It is a small matter, but there are several small things which are irritating. They used to keep up all the ring fences, I understand, that is the outside fences along the roads that go to the fields.

152. Who kept up those?—The estate, until changes of factors and foresters took place. One took off a bit, and another a bit, until it is all done away with now. Those are things which were for the benefit of the people.

153. Is there anything else you desire to add?—As to the ability of the people to redeem the plots they cannot do it. I would like to enforce that point, and also that they claim what might be called fixity of tenure, that the croft is not so much given to the man or individual as it was given to the building or stance.

154. Do you suggest any legislation with regard to that?—Yes, that the crofts be restored as at their original allocation. When they were originally allocated they were given to the stances. The man I mentioned, Murray, who built several houses, built for the purpose of selling. He built the houses and sold them, and a house was only of value when there was a croft with it; it can be of little value otherwise.

155. What legislation would you suggest?—That the privileges that the people now possess be made permanently theirs.

156. Do you make any suggestion for the conversion of the long leases into feus?—I would advise the people to take a feu.

157. But do you suggest legislation, or would you leave that to voluntary agreement, or do you think the Legislature should interfere to convert the one right into the other?—Personally, I am sore against legislation coming in where free contract can be made, and this renewed offer for 35 years certainly is a very plausible thing.

Mr. *Renshaw.*

158. It is more than plausible, is it not?—Any man can take a holding for 35 years, but if they are left just where they are those who come afterwards are left to fight again the battle that we are now fighting, and it is quite easy to say: "I can get so much money for your house." If you do not like to redeem that house from the estate, the estate can sell your house at that value, though it is the man that has put that value into it.

159. I think it is a little more than a plausible offer, is it not; it is a considerate offer, a generous offer, is it not?—Oh, yes.

160. The word "plausible" is a little suggestive, is it not, and not quite the right word?—No.

Chairman.

161. I do not understand you to suggest it was not a *bonâ fide* offer?—No, I did not mean that, but it has a better appearance than it really has, there is no doubt about that. I think that at first sight the whole of the offers, even those that would strangle the whole village, are certainly to an outsider's view very considerate and kind, but if you come to look at the people and find that they are wearing their nails off their hands

Chairman—continued.

in scraping together pennies to make up pounds to pay their rent, and they have nothing to live on, otherwise you find that what is good and marvellously kind in one place is in this place beyond their power to accept.

162. In connection with this last offer to continue the long leases of the stances for 35 years, has anything been said about the crofts?—Nothing.

163. Is that left an open question?—Yes, it is.

Mr. *Baird.*

164. This place is, I understand at the foot of the Cheviot Hills?—No; we are a long way south of the Cheviots; the Cheviots are north-east of us.

165. Are there any other cases of a similar kind, or any other villages where similar conditions obtain at the present day?—I do not think so; Langholm had a few houses like it, and Hawick also.

166. Is this practically a solitary example?—The whole village is solitary; there is not another village that I know of like it.

Mr. *Thomas Shaw.*

167. Does the railway pass through there now?—Yes.

168. Is there just the one owner of the whole village?—Yes, just the one who owns almost the whole parish.

169. Not only the village, but all the surrounding land?—Nearly so.

170. Including the crofts which you have mentioned, and also the farming land on which they labour occasionally and win hay?—Yes, practically it is all one proprietor.

171. Do you happen to knew what the tradition with regard to the expense of those houses was; was it at the expense of the leaseholder, or at the expense of the Duke that they were put up?—Entirely at the expense of the leaseholder.

172. Except in the cases where the feus were vacated, do you know of any instances at all where the occupation of the land has been separated from the occupation of the plot except in the case where the plot and stance have been vacated by the leaseholder going away; do you know of any case in which the occupation of the land has been severed, or has the lease and the plot always been given; have the crofts and the plot always been held together?—They have always been held together; I was trying to recall a case where it was not so. I have known certain old people who have grown too old to keep a cow, and when they let their field they were found fault with. That was when a new factor came on to the place, and was refusing to allow that. The land was taken from them, and that was a very sore grievance, as you will see. They had made the land. Some of those crofts were nothing but a piece of black moss. An old man told me the other day, "I went out to see a field when it was given off, to see if there was a blade of grass upon it, and there was not, except upon the far off corner, where there was a little tuft. The party who got that field drained it, flayed it and burnt the flayings, and then limed it.

Afterwards

Mr. *Thomas Shaw*—continued.

Afterwards they came and increased the rent." The field that was given off on the other side divided by a hedge, is let at this moment at about 4*s.* 6*d.* an acre, because it never was improved, while the field I speak of has trebled and more in value. Where an old man has died and left a widow, or where both of them have become too old to work with a cow, if they sublet it, that was taken from them. That was not done previously.

173. In the offers for the fixed tenure by feu, do those offers necessarily include the purchase by the feuar at three times the valuation roll rental?—Yes.

174. Has there been any proposal to have a permanent tenure by feu apart from that condition of slump payment?—They have offered to allow the money to lie on and take interest on it.

175. Take the case of a lease of a plot at 5*s.* present rental?—For the house stance?

176. Yes, for the house stance. Will you tell me the rent for the croft in addition, or is there any rent for the croft in addition?—Yes.

177. What is that rent?—It may be 2*l.*, or it may be 4*l.*

178. Are the crofters willing to treble the rent of the plot if they get a fixed feu?—Yes.

179. And if they are allowed to have the occupation of the land at the same rent during the currency of the feu?—Many of them would be forced to give it up, as they cannot run it at the same rent; it has been so increased.

180. To put it in a word, rent has been put upon their own improvements?—That is it.

181. And they think, do they, that they ought to have the benefit of their improvements, to some extent at least?—Yes. As to that field which I was speaking of; I was talking to the man who drained it, and he said to me, "I drained that for John Murray; it cost 30*l.* for tiles and other things," and it is on that 30*l.*, beside the lime, and so on, that the increased rental is.

182. Let me ask you this general question. Is it possible, do you think, that any arrangement can be come to for a permanent tenure of these patches of land apart from a similar arrangement with regard to the crofts of land. Can you separate the patches from the crofts?—No.

183. Does the one hang with the other?—Yes.

184. Do you suggest any interposition by the Legislature to compel the allotment of land in such circumstances for the general benefit?—That is what the people want.

185. Accompanied with the occupation of a small-sized croft of the kind you have described?—The croft you are specially referring to?

186. Yes?—Yes: they want to get that permanently along with the house.

187. If the Duke offered to make the occupation of the land as permanent as the occupation of the stance, that would suit their purposes, would it?—It would.

188. Has that never been done?—It never was called in question until within recent years.

Mr. *Thomas Shaw*—continued.

189. But the present offer does not include that does it?—No.

Mr. *Maxwell.*

190. With regard to the rents of the crofts can you say when they were increased; has it been of recent years?—Perhaps about 30 years ago; it was before my day coming into the place.

191. Recently has there been any increase?—No, not since then.

192. The average extent of these crofts is about two acres, is it not?—For a single house; for a double house, it is four acres.

193. And along with that they have a right of grazing, have they?—Yes, for a cow on the common.

194. For how many animals?—One cow, which is equal to two stirks.

195. Can you say about what rent they pay for that?—They pay about 26*s.* for the stent, that is the cow's graze, and the rental is from about 4*s.* 6*d.*, to above 2*l.*, as I have told you per acre; the average is about 1*l.*, or upwards per acre.

196. How are most of the inhabitants occupied?—Attending to their little crofts.

197. They cannot make a living out of their crofts, can they?—That is the difficulty they have. If you were to go into their houses you would be amazed to see the amount of cleanliness and the appearance of sufficiency in the house, and yet there might be the utmost starvation. I was in a house one day, and I thought there was no want or anything. At night, between nine and ten, I was asked to go and see someone there, and when I went I found they had not broken their fast for three days. That was not a crofter exactly, but it shows you should not judge by appearances. There is a deal of unseen poverty there.

198. It is the fact, is it not, that they cannot manage to make a decent living out of those crofts?—They cannot; they want more land.

199. Do any of them go away as tradesmen?—There are some of them working on the railway; the sons and daughters reside round about and assist their parents at home. All the young men have to go off, and are very kind and considerate towards those remaining at home.

200. Do any of them go away themselves in the summer?—They go and work at draining and so on, on farms.

201. Are there many better houses in the village. You say the average rent of the houses is from 4*l.* to 6*l.*?—Yes.

202. Are there any superior houses there;—There are a few. There is a retired farmer for example, who has built his house within the last 20 years. There is the schoolmaster and myself, and there are two inns. There is the Commercial Hotel and another.

Mr. *Renshaw.*

203. That does not sound as if they were altogether impecunious does it?—They serve the district; the parish is 21 miles long.

Mr. *Baird.*

204. How many churches have you there?—There are four.

Mr. *Maxwell.*

205. Do you know of any cases of transfer of leases?—Many. Do you mean of the croft as well as the stance—the whole thing?

206. Yes?—Many.

207. Do you know of many cases of the transfer of the stances without the crofts?—I know of one or two instances where it has been refused.

208. Do you know what was paid for the lease; do you know anything about the sum that was paid by the buyer?—Yes; some of them have gone at 50*l.* and upwards; it depends upon the condition of the house and also the field; it was the field that gave value to the house.

209. Do you mean the croft?—Yes, the croft. If the field was in good condition, and near to the road, and not high up on the hill side, the house was double the value of another with a field of cold clay, or not improved, far off.

210. What has been the highest price you have known paid for a stance and croft?—About 60*l.* But the highest of all was an inn. The licence gave it its value, and is not a fair example.

211. You have told us of the original offer which was made by the Duke of Buccleuch to the leaseholders, which I understand was a feu at the rate of 10*l.* to 5*l.* an acre, and the house was to be purchased at three years annual value. Do you say after that it was offered on the interest of the redemption money being added to the feu duty?—Yes.

212. Did the leaseholders continue to object to that, and think it was much too high a price to pay for the feu?—It is more than they can pay where they are making their living off the land. Of course, where there is a tradesman who has a croft, he is not depending upon the land and he can pay it quite easily, but with one who is living on the land and off the land, a penny is of very great value indeed; there is a good deal of bartering.

213. Following on that, was there a representation made by the inhabitants of the village to the Duke of Buccleuch?—Yes.

214. Complaining of the terms?—Yes.

215. After that were they offered an extension of their leases for 35 years?—That is so.

216. Can you say how many accepted the original offer?—No, I cannot.

217. Do you know about the number?—I was told 26. Of course, I do not know, and am speaking under correction. I never knew the number except by hearsay.

218. On the whole, has that last offer given satisfaction to the inhabitants of the village?—As to the houses, yes; they are holding them. Of course, when they come to sell their property if they refuse to transfer the land with it, then the property is of littlo value, and that is why they are most desirous of having the land given permanently with a feu, not to the individual but to the house.

Mr. *Whitelaw.*

219. Does the village of New Castleton show any signs of increasing or decreasing in population, one way or the other?—It has kept stationary, because there are no new houses, and the old ones cannot accommodate any more.

Mr. *Whitelaw*—continued.

220. Is there any case among the crofts there where a man may hold a croft, and his son grow up and marry some one in the village, the original croft being divided between the father and the son?—There has been something like it, but very little of that.

221. And you do not think, do you, that some of the poverty is attributable to the fact, that a croft that originally supported a father and mother now has to support the father and mother and the son and his wife, and perhaps a young family?—There is nothing of that kind with us.

222. It is the case in some parts of Scotland, is it not?—Yes, but not with us.

Sir *John Kinloch.*

223. I did not hear the whole of the evidence, but I understand your cure for this case is that the stances should be fued at three times the present feu duty; is that so?—Yes.

224. Would that satisfy you?—That would satisfy me.

225. And I think you said about 5*s.* for the quarter af an acre?—No, I do not think I said so. The rent of a stance just now runs from 3*s.* 9*d.* up to 4*s.* 6*d.* or 5*s.*

226. Taking it at 5*s.*, do you say that a man who is paying 5*s.* a quarter acre would be satisfied by paying 15*s.*?—Yes.

227. And the Duke is wanting double that, I understand?—Yes.

228. Besides that do you wish the crofts attached to the stances to be held by fixity of tenure?—Yes.

229. And fair rent?—Yes.

230. How do you propose the fair rent is to be settled?—We would leave that to a valuator.

231. And do you want legislation to compel this state of things to come about?—Yes, partly.

232. To force the landlord to feu at that rate, and to give fixity of tenure and a fair rent for the croft attached to the stance?—Something like that.

Dr. *MacGregor.*

233. I understand that the houses and the crofts are two different subjects on this estate; am I right in that. Was the croft included with the house from the beginning, or was it not?—We believe so; there is no lease or anything to show.

234. I think you said that a man who was building houses was told to go on, and he would get land as he chose to build?—Yes, for every house he built.

235. Therefore the land was added to the house from the beginning, I understand?—So I understand it.

236. What had the people a lease of which has now run out, was it of the house and plot merely, or was it of the house and croft?—The croft was not spoken of.

237. For the houses they had long leases of 99 years, I understand?—Yes.

238. Which are now about to expire?—Yes.

239. But not of the crofts?—We think that the croft was on the same terms.

240. You

Dr. *MacGregor*—continued.

240. You have told us that this builder was told to go on, and he would get land with houses which seems to me to form part of the understanding on which it was taken. Did the people understand it as such?—That is the general opinion.

241. However, I understand the people built their own houses?—Yes.

242. Without any assistance from the proprietor?—Yes.

243. Did they pay rent from the beginning for those houses?—I understand so.

244. And they were obliged to keep them in repair, were they?—Yes.

245. At the end of the lease, are they asked now to pay a three years' valuation rental, if they wish to continue them?—That is so, or if they wish to get them converted into feus.

Chairman.

246. In the ultimate offer, which is to prolong the leases, there is no payment to be made for the houses nor for charter expenses?—Not if they hold the 35 years, but they have the option of a permanent feu.

Dr. *MacGregor.*

247. But the original offer I understand was a renewal of the lease on the old terms, was it not?—No, the feu first.

248. Do you mean a perpetual feu?—Yes.

249. On what terms?—From 5*l.* to 10*l.*; it depends on what part of the village the house was in.

250. Did that include the croft?—No.

251. The house only?—Yes, the house only, with the kitchen garden.

252. Which averaged from 4*l.* to 5*l.* per annum, I understand?—Quite so, on the valuation roll.

253. The houses, as I understand, have only a but and a ben?—Usually, there is perhaps a middle room.

254. With no upstairs?—No.

255. Is not 4*l.* to 5*l.* a large amount of rent for that accommodation?—If the house is in good condition that is what it is let for to a stranger.

256. Do you not think it is a pretty high rent?—We do not feel it so; it is a full rent, we think, nothing more.

257. And the croft and outrun for a cow is charged at an extra rental, is it not?—Yes.

258. At the rate of 26*s.* a year, do you say?—No, the cow's grass, common, is 26*s.*

259. Apart from the croft?—Apart from the croft.

260. What is the average rent of the croft per acre?—About 1*l.*

261. And do you say that that croft was redeemed originally from blackmoss?—Some of it was; different portions of it were in different conditions.

262. But was it all reclaimed land?—Yes, all.

263. Did the crofters reclaim the land themselves from its natural condition?—They improved the land.

264. They made it grow crops where nothing grew at one time, but perhaps heather or wild useless grass?—Yes, but you must also understand that part of it is holmland, and, of course, that would be good, but all the crofts on the hill sides have been made.

265. They did not get that land for the same rental, I suppose, as the others who had the mossland?—No.

266. Let us go back to the original mossland. Those men cultivated it, drained it, reclaimed it, and in fact make it grow decent crops?—Yes.

267. What was the original rental that they paid for that per acre?—I was told 4*s.* 6*d.*

268. What is the average rental now?—It is high.

269. About 1*l.* an acre?—I would not like to put it positively, but I can send you the rental. I specially mentioned one field which was 4*s.* 6*d.* an acre, while the field alongside, which was improved, is treble in value, or perhaps its value is fourfold.

270. How did it become to be trebled or quadrupled in rent?—They came over and valued the land.

271. Who did?—The Duke.

272. Do they do that periodically?—No.

273. Is it done spasmodically?—Just so.

274. Was the rental raised simply because these poor tenants had reclaimed the land and had made the land grow a crop to live upon; was the rental increased merely on their labour?—On their labour and investment.

275. For no other reason; that is to say, these men have been obliged to pay a quadruple rent, because of their own improvements?—Yes.

276. Did they get any compensation for that?—Not in my knowledge.

277. Not in the shape of fencing, and so on?—Not to my knowledge.

Mr. *Renshaw.*

278. I thought you said the fencing on the estate and the roads had been kept up?—It used to be.

279. They were improved and kept up for some time by the estate, were they not?—Yes; I want to give you a correct statement; I have no desire to mislead in any way, but what we call the ring fence, the outside fence that comes along all roads as well as what divides the crofts from a hill or from a wood, is what I mean.

Dr. *MacGregor.*

280. Was it the general outside roads and fences which were kept by the estate?—Yes.

281. And I understand these are not even kept up now; why not?—I do not know; they tell us to do it ourselves; I am speaking as a crofter now.

282. If they charge treble and quadruple rent for the land, what ground have they for withdrawing from keeping the fences, as hitherto?—I suppose the factor is doing the best for the estate he can.

283. Without regard to the people?—I cannot tell you what his regards may be.

284. But it amounts to that, does it not?—It looks like it.

285. You said that these people have nothing whatever

Dr. *MacGregor*—continued.

whatever to live upon but those crofts, except they go away from home occasionally to drain and work elsewhere?—Just so.

286. And yet on their own labour they are called upon by the landowner to pay a quadruple rent compared with the original value, I understand you to say?—That is what it comes to.

287. I suppose it is agreed on all hands there that this is a very one-sided arrangement, is it not?—They think so, certainly.

288. And unfair?—Certainly.

289. Unjust?—Certainly.

290. And not a reasonable arrangement as between man and man?—Well, no; it is all on one side, but you see the people have to submit or go away, but they cannot go away.

291. Are Scotchmen come to that state of mind that they think this is a condition of things that might continue, or have they not come to the conclusion that it is time to make a stand against this sort of thing. What is your opinion, as a clergyman in that district, as to that. Are the people's eyes not opened now to the unjust arrangement as between landlord and tenant?—Many of them have gone making requisitions saying that they cannot do so-and-so, and they are told, "give it up." They are afraid to go near the Duke because they are afraid to lose their crofts and afraid to assert their manhood.

292. Why are they afraid?—Perhaps it is mere bogle.

293. What are they afraid of?—They are afraid that they will lose the land; afraid it will be taken from them; they are afraid of everything.

294. They are, in fact, afraid of being evicted from their miserable houses and crofts if they do not do as they are told and pay four times the value of the land, is that so?—Pay what they are asked.

295. And rather than go out they are willing to accept those new conditions offered them by the estate?—That is so.

296. Do you consider those new conditions by any means reasonable or fair?—They are altogether one-sided.

297. Even the new conditions are one-sided, are they not?—Not this 35 years' extension; that is allowing them to sit still.

298. But they sat still, you told me, under unfair conditions?—Yes.

299. And if they continue 35 years longer, it is only under unfair conditions, is it not?—That is so.

300. Do the people then think they are properly treated by being offered 35 years more penal servitude, which is what it amounts to: I ask you that question as a clergyman?—Well, they are attached to the land, their heart is in it, and there is the offer of other parties to go on taking the land because there is land hunger there.

301. And even those people are anxious to get more land added to their miserable crofts, are they?—They are.

302. Is there no more land to be had on fair terms?—There is plenty round about.

303. Are they willing to cultivate that land?—Yes.

Dr. *MacGregor*—continued.

304. Reclaim it and make it good growing land?—Yes.

305. Why are they refused that land?—It is let to farmers.

306. On lease, I suppose?—On lease.

307. Do you know what the farmer pays per acre for his land in that neighbourhood?—About half-a-crown, and some of it runs up to 5*s*.

308. The same land which the crofter pays perhaps 1*l*. an acre for; is that so?—That is so.

Mr. *Renshaw*.

309. The arable land for 2*s*. 6*d*.?—No. It is mostly hill country, it is sheep land; and if you speak of arable, you immediately come down to the holm land, which is different.

Mr. *Baird*.

310. Is this sheep land capable of cultivation?—A great deal of it.

Dr. *MacGregor*.

311. The crofts have been reclaimed from bog land, I understand?—Yes.

Mr. *Baird*.

312. The crofts are on the low-lying land, are they not?—They are on the hill-side too. It juts into a part of a farm you might say, with the same land on either side, and running right away up.

Dr. *MacGregor*.

313. What the people wish for now is, I suppose, more land, and they are willing to give a fair rent for it?—Yes.

314. Do they wish also some security of tenure?—That is the principal thing.

315. And they would like also compensation for their own improvements, would they not?—Yes, if turned out.

316. Do you know of the Crofters Act?—Yes.

317. Do you think it would be desirable to extend the present Crofters Act to that district?—Yes, it would be.

318. Do you know its leading features?—Yes, security of tenure is the principal one.

319. And do you think it would be desirable to have it extended to your district?—Most desirable.

320. Do the people wish that?—Yes.

321. They wish, therefore, the extension of the Crofters Act to your county, do they not?—They do.

322. In the event of that failing is there any idea of legislation that would compel a landlord to give such land as those poor people may require for their maintenance; if there is hill pasture there, say at the end of a farmer's lease, do they desire that there should be some compulsory power given to some authority to take such land as those poor people require?—Of course the County Council Bills, it was thought, would give them land, but they say they cannot get that. A few applied, but others did not apply because they were told it was no use. They are afraid to make any claim lest they lose what they already possess.

323. That

Dr. *MacGregor*—continued.

323. That is with reference to small holdings, is it not?—Yes.

324. But you would give county councils power to take that land on simpler terms, would you not?—Just so.

325. Making the machinery less expensive and less difficult to work?—Quite so.

326. Do you think that would meet the difficulty in your case?—Yes. You refer to giving fixity of tenure for the crofts?

327. Yes?—Yes.

328. Do I understand you to say that these people are still willing to continue paying those high rents on their own labour?—They cannot get out of it.

329. Do they do so simply because there is no alternative but being turned out?—Just so.

330. Is it a case, then, of agreeing to the landlord's terms, or eviction?—It just comes to that.

Captain *Hope.*

331. You said that the crofters in New Castleton are tied to the place, and that they cannot go away if they want to?—Yes.

332. Will you explain what you mean by that?—They are bound by their love to the place.

333. Then it is only a matter of sentiment, is it, and not a matter of servitude?—It is both. It is sentiment so far, but it is their all; it is all they have, but it is there in that plot of ground, in that croft, and in those few stones.

334. I wanted to know if there is anything beyond that?—No, but it is their all. If they give that up they give up everything, and they do not want to move out of them.

335. Not even to get employment elsewhere, and come back. Do not the young people of the family go away and come back to inherit the crofts afterwards?—Yes, they go away and spend the best of their days working, perhaps, round about, and when they have 40*l.* or 50*l.* saved they come in and buy a croft, and settle down, or get their father's croft, if the father leaves one.

Mr. *Renshaw.*

336. This village, I understand, is singular in this respect: in the district there is no other village in which the tenure is of a similar character, is there?—No, the village was entirely made for this purpose, and has existed as it is now existing; there is no other village or town that I know of which is like it.

337. No other place in the county of Roxburgh?—None.

338. So that it is quite exceptional, is it, amongst the localities in the county?—Yes.

Dr. *MacGregor.*

339. What is the entire population?—Of the village, 900.

Mr. *Renshaw.*

340. Is there absolutely no other employment, no other opportunity in the village itself, for gaining a livelihood other than that to be derived from the cultivation of these small crofts?—Nothing; there is no industry of any kind.

341. How far is New Castleton situated from any spot where there are industries which would give occupation to any surplus population?—It is about 21 miles from Hawick, and over the hill to Langholm it is about 16 miles; it is a small village also, or not much more than a village.

342. I suppose it would be the case that a considerable number of young members of families in this village would go to Hawick and obtain labour in the mills there?—Some of them, but almost all our people go out as servants; they do not go to the mills. Some go to Hawick, but mostly they go out as servants round about.

343. You told us there have been no applications whatever made under the Small Holdings Act by any of the inhabitants of the village?—No, I did not. There were a few did, but not many. A number thought it was not worth their while, though they were ready to do it.

344. What was the result of those applications?—They were informed that there was no land at present.

345. By the county authority?—By the County Council.

346. And they did not prosecute the matter, did they?—They did not.

347. Do you not think that if they really had this desire for larger holdings, it was a pity that a number of them did not prosecute a proposal to increase their holdings?—I thought so, and I think so still.

348. Does it not seem to you that under the existing law with regard to small holdings, if any considerable portion of this population were to make an application to the County Council under the provisions of that Act, the county authority would be able to move in the matter, and in all probability relieve this difficulty which you state is in existence in your village?—Yes. Well the opinion of the villagers is that the County Council would not move.

349. But that is purely an opinion which they have formed, is it not?—And upon which they have acted.

350. And which has deterred them from ever putting into operation the existing facilities which are offered under that Act?—A few applied.

351. I am speaking just now of general application. The villagers might combine, you think, in order to get a fuller consideration on the part of the county authority?—Yes.

352. That has not been attempted, has it?—They did not go forward because they said there was no use in it. I myself said "you have no right to say so."

353. That is to say, they did not take the ordinary steps which the law provides in order to assist themselves?—Because they said there was no use in it, as they knew the County Council, and they considered they would do nothing for them.

354. Did they take it for granted that they could get nothing, and consequently sit with folded hands, and not try to help themselves?—They were confident it was no use in doing so, and also there was a measure of fear with them. Fear is a terrible thing.

355. I imagine it may be; but can you tell us why they were apprehensive?—They were all so afraid of losing their crofts.

356. You have given us to understand, in

Mr. *Renshaw*—continued.

answer to Dr. MacGregor, that they look upon these crofts as part and parcel of the leasehold property which they occupy, and which they have now the refusal of for 35 years in the future?—Yes.

357. Why should they be apprehensive about losing those crofts?—Because some had been taken already.

358. Then you admit, do you, that they are not part and parcel of the leasehold property which they got?—No, I do not admit that; I hold that they are part and parcel of it, or should be; only the estate is a stronger power, and exercises that power.

359. It seems a very singular thing that they should be apprehensive in regard to this matter to such an extent that they are afraid to avail themselves of public opportunities which are within their reach, when undoubtedly public feeling would be very much upon their side, would it not?—Yes.

360. Do you not think it is a great pity that they did not take some step of this kind?—I do.

361. Sufficient, at all events, to set the public feeling of the locality with them?—I do; I think it a very great pity.

362. So that, practically, is your opinion, that if they were to take a course of that kind without any other legislation in connection with the matter, it is very possible that their difficulties might be, to a certain extent, and to a considerable extent, solved?—Certainly, so far, when they had got increased crofts under the Small Holdings Act; but you would leave still untouched the crofts that they claim as belonging to them, as being part and parcel, as you put it, of the holding which they claim as belonging to the original lease.

Dr. *MacGregor.*

363. Did they make any actual applications to the county council for more land?—Some did. There were three or four who did.

364. What was the reply?—That there was no land.

365. That is specific enough. May I ask what the political complexion of the county council is supposed to be?—I have taken an active part in this matter. The people came to me and asked me to come to their meeting and keep them right in point of form.

366. I want a straight answer to a straight question, simply: is it considered a Tory or a Liberal county council?—I do not know as to the council over the county itself, but, for the part in which our district is, both the members are Tories.

Mr. *Baird.*

367. At all events, it is elected by the voters in the county, and, whether Tory or Liberal, it is a representative body, is it not?—It is supposed to be.

Mr. *Maxwell.*

368. Was there a contest at the election?—No, no contest.

Sir *Charles Pearson.*

369. The applications you have spoken of were under the Small Holdings Act, were they not?—Yes.

370. Has there been any desire for allotments, or any application under the Allotments Act?—It is the same Act you are referring to, is it not?

371. No; if you do not know the distinction I will not press the question. Do you know the Allotments Act as distinct from the Small Holdings Act?—It is the Allotments Act they made application to the County Council under.

372. I think you are confusing the two. As far as you are aware there is no desire for allotments, or any application under the Allotments Act?—No, they all have allotments. Do you refer to the gardens along with the houses?

373. Yes?—Everybody has that; there is no house without a garden in the whole place.

374. Then those houses that have lost the crofts, have the gardens, have they?—Yes.

375. You have spoken of the reluctance of the people to make applications as springing from their fear of eviction. Is that so. Did I understand you to say that the reluctance of the people to make applications springs from their fears of eviction?—Partly; but first of all they said there was no use in doing it. The common idea was that it would be useless.

376. Then you added that they were in fear, did you not?—Yes, they were afraid too.

377. Has there been any instance in your time of a croft being taken from a person who was working it, and willing to work it?—No, but the party has grown perhaps old, and was simply unable to retain the cow, and all he had to live on was the profit of this croft.

378. Quite so, and of course if they could not work the croft, or keep the cow it would be useless to them, would it not:—No, not useless; they could let it.

379. Are are many instances of crofts being let by one to another in New Castleton?—There are a number.

380. Has there been any sub-division of crofts in your time in New Castleton?—No; I should like to understand your question a little better.

381. Sub-division of the occupation I mean?—I have known a house being left by a father, one half to each brother, and the croft would be divided.

382. That would be joint interests, would it?—Partly; they would run a hedge up through it.

383. Then there have been instances of sub-division in your time?—Yes.

384. Apart from sub-division, has there been any increase in the number of holdings in your time?—No.

385. Have any of the crofts that have fallen in, or, as you say, been taken from the building stances been added to the larger holdings or to the farms round about?—No. I do not know, but some of the villagers might have some complaint (I speak partly under correction) of fields being taken from them and given to an adjoining farm.

386. But you do not know any instance of it, do you?—Yes. I perhaps cannot give you all the

Sir *Charles Pearson*—continued.

the outs and ins about it, but I know there was land taken; there was an excamb in one case.

387. Did they complain about it?—Yes, because they had the land cultivated, and they got a piece of almost barren stuff in exchange.

388. How long ago was that?—It might be 14 or 16 years.

389. Is it just one instance you remember?—One complaint was made to me recently about it, when I was pointing the matter out. There were two or three of them in the same predicament.

390. Do you know what the purpose of that excamb was, or at whose instance it was done?—No; perhaps the application of the farmer.

391. You do not know the details, do you?—No, I do not.

392. About what was the date of the transaction with the Duke Henry, which you spoke of?—That would be about 1793.

393. That was the beginning of the leases, was it?—Yes, that was the beginning of the leases. I may be wrong in a year or two, but it was at the beginning of the long leases shortly after 1790.

Chairman.

394. Are you acquainted with the passage in the Report of the Royal Commission on Labour, volume 3, Scotland, Part 2, page 204, Roxburgh, Mr. Edward Wilkinson's report, which contains a letter from the Duke's Commissioner with regard to New Castleton. Have you ever seen that?—I do not know of it.

395. In the papers sent me I see there is a reference to it with which I have not dealt, and I think it might be convenient to get that reference on the notes. Have you ever heard whether the village was laid out for a hand-loom weaving village?—I have heard that, but I heard it contradicted.

396. It must be a unique place; but Mr. Yorstoun, the Duke's Factor, says, "About 100 years ago, it was laid out for a hand-loom weaving village, and building lots were let for 99 years." Then he gives an account similar to yours. He says that, "there were 260 such lots, of which about 222 were taken up and built on between 1793 and 1800," and then he goes on to various other matters?—Yes.

397. You are not acquainted with it, I understand?—I know all these facts which you have mentioned.

398. Then there are details which the Committee will find as to the number of fields. I see that he says as to the fields that are let, "there are 311 of these fields, measuring 775 acres, and the total rent is 634*l.* No change has, I believe, been made in the rents of fields held in regular succession from original tenants, though when land has changed into new hands, there has been at times an increase of rent. Although at first attached as yearly holdings to the house lots in the village, that has long since ceased to be the case, for various causes, some having lost their fields, and others having acquired several." That seems to agree very much with what you have said?—Yes.

399. Then he says, "Sub-letting has always been forbidden by the estate rules, though not always successfully." Do you know anything about that?—That is where the contest begins with the people. May I say that the sub-letting was quite a free thing until, I think, Mr. Connel, the previous factor to Mr. Yorstoun, objected, and when Mr. Yorstoun came he began to find fault too. There was an increase of rent, a public valuator being sent up by the estates, and they went over the fields, and whatever was worth increasing was increased.

Chairman—continued.

Mr. *Shaw.*

400. When was that?—That was about 30 years ago, more or less.

Chairman.

401. New Castleton, it appears, is in Liddesdale, is it not?—It is in Liddesdale.

Dr. *MacGregor.*

402. Has there been any valuation of the property since 30 years?—No.

403. And yet the value of land in that district has depreciated very much, has it not?—Very largely. The farms are changing hands, because the farmers cannot hold them.

404. Do the farmers pay much smaller rents now than they did 30 years ago when that valuation took place?—Neighbouring farms have been let for nearly half the original rent.

405. And yet the crofters pay the same rent, do they?—They do, and that is the sore point.

Chairman.

406. Can you tell the Committee who supports the three clergymen of the village?—The general funds of each denomination are drawn upon.

Sir *Charles Pearson.*

407. With the local subscription?—Each congregation, I believe, does faithfully abide by their minister.

Chairman.

408. Have you any means of informing us what amount is contributed locally towards the religious ordinances of the three denominations?—I cannot speak for the other two; I can give you my own.

409. If you desire to volunteer it you may; we do not press you for it?—They collect, I think, 65*l.* to the Sustentation Fund, and we have an endowment which a native of Liddesdale left us. He set us upon our feet, and that largely goes to the amount of the sustentation.

410. What is the amount of the endowment?—£. 1,400.

411. It was a native who had left and gave this amount?—Yes, quite so; a native of the parish; not a native of the village.

412. Do those who contribute towards the religious ordinances of these three denominations confine those contributions to the village, or do they comprehend residents in the landward part of the parish?—Yes.

Mr. *Renshaw.*

413. Is the 65*l.* subscribed to the Sustentation Fund the only local income in connection with the Free Church?—No; there are collections for other purposes as well.

Mr. *Renshaw*—continued.

414. There are pew rents, I presume?—Yes, there are in the United Presbyterian Church only.

415. I do not want it to go down on the notes that that was the whole amount, because I think that would be an undesirable statement?—No, it is not; I can give you the figures.

416. Otherwise it looked as if 65*l.* was the only amount subscribed by the Free Church congregation in New Castleton, which I think you would not desire?—No; I do not desire that to be understood.

Chairman.

417. Is there anything else you would like to add?—I would like to say that the people feel it as a matter of conscience to give their pennies.

418. The question is as to how far the existence of three churches in that village indicates a condition of affluence enabling them to sustain those bodies?—Quite so; it indicates that where there is a small place and an independent spirit, each man thinks for himself. It is a pity that there are so many.

Mr. William Hall, called in; and Examined.

Chairman.

419. I believe you live at 3, Eton Villas, South Hampstead?—Yes.

420. And you are a native of New Castleton, I believe?—Yes.

421. Do you desire to give us some information upon this matter?—Yes.

422. I understand you would prefer to read your evidence, would you not?—I have written down the evidence which I propose to give, and with your permission I should prefer to read it: "I am a civil engineer, and a member of the Institute of Civil Engineers. I am a native of the village of New Castleton, and generally visit the place every summer, and have done so nearly all my life. The village is situate in a purely pastoral country in the south-west corner of Roxburghshire, 25 miles north of Carlisle, and 20 miles south of Hawick, on the Waverley branch of the North British Railway. My great-grandfather, Francis Ballantyne, built the first house in New Castleton; it is in North Hermitage-street. On the lintel of the door is the inscription 'F.B. 1793.' The village was founded in 1793, and has nearly a population of 1,000 inhabitants. The village itself is a considerable sized place. It consists of one main wide street half-a-mile long, and a second shorter street parallel to it, the houses of which face the River Liddel. The main street has at each end a small square having an area of three-quarters of an acre. In the centre of the main street there is a fine square, having an area of two acres. From this square two streets lead to the railway station, and two to the river. The design and general plan in laying out the village is not without merit. The streets are wide, but the footpaths are paved with river cobble stones, so very large as to make it quite a feat to walk over them, the consequence is that the footpaths are avoided, and the muddy carriage-way sought instead. When the cobble stones are not more than an inch in size, a very good and pleasant footpath is formed. The houses of the village are very poor, with most defective sanitary arrangements. There are altogether 222 houses standing on garden allotments, each having an area of about one-eighth of an acre, 172 of these are small houses (cottages), and 50 two-storied houses. The small houses have each two acres of land attached to them, and the two-storied houses have each four acres of land. The tenants have also a stent for a cow to pasture on the village hill. The 'Good Duke Henry,' who laid out the village, let the tenants have the feus, for both the houses and the land, at very moderate rents. But with such small allotments of land, it was not possible for the tenants to make anything like a fair living. The land, which is divided into fields, is nearly all pasture for grass and hay. There are some houses that have no land attached to them; it was taken from them for political reasons, the tenants or feuars, as they are called, not voting according to the views of his Grace the Duke of Buccleuch. The village is held under lease for 99 years; most of the leases expired last year. The tenants themselves built the houses without any assistance from the Duke. They also reclaimed the land, and made it the value it is. The restriction in the area of the land is the great evil connected with the place. It is evident there is not a single holding which can afford adequate occupation and support to a tenant labouring his land, and living by it. To make the people in some measure prosperous (where, as here, constant wage-paid employment is wanting), the land should not be of less area than would give the tenant constant occupation. There are, besides, those engaged in trade and handicraft occupations, who take no part in the cultivation of the soil, though they are more or less dependent on it for support. The village was founded for the labouring man and the necessary trades which spring up in such a community, and such it continues, without any other industrial occupation whatever. In consequence of the small holdings, and as no other employment in the district can be obtained to earn a wage, the tenants all along have been very poor. Notwithstanding this, in 1862 it was rumoured that the rents of the land attached to the houses were to be raised. Up to this time, which was 70 years from the birth of the village, all went on in peace and good will between the Duke and his tenants, with a loyalty on the part of the latter that had no bounds. The rumours referred to taxed the faith of the tenants in a manner to which they had not been accustomed, but they relied on the testimony of their fathers and grandfathers, handed down to them to the effect, that they had always understood that the land and houses went together in the so-called lease of 99 years. It should be stated that not a tenant had any document to show that he had a lease of either house or land. However, the

Chairman—continued.

rents

Chairman—continued.

rents of the land were raised, and not only raised, but in some cases more than doubled. It is also to be pointed out that the tenants themselves had at their own expense, reclaimed and converted the barren moorland into rich pastures, so the rents were raised on their own improvements. To justify such proceedings, it was stated that the land did not form any part of the lease, but was under a yearly tenancy, a statement never heard of during the previous 70 years. But it stands to reason that no one, much more a labouring man, would think of going to the expense of building a house on such conditions that the land, upon which he depended to make a living could be taken from him, or the rents raised at the pleasure of the Duke. There can be no doubt that the lamentable proceedings that took place at this time was the cause and the commencement of the estrangement of the feelings of the villagers to the Duke of Buccleuch. Again, in 1878 or 1879 the Duke very inconsiderately, to say the least, seized the land attached to some of the houses and took away that from tenants whose politics were known to be different to the politics of his Grace. There were several victims of this high-handed proceeding, my own family amongst the number. We had three houses, the land was taken from each, rendering the houses of little or no value. One has become a ruin because it is not worth keeping up or rebuilding, having no land attached to it. The houses in the village, with the exception of a few which have been rebuilt during the last 20 years, are structurally defective and are really done, and will have to be rebuilt very shortly. The cottages are very low. When standing on the floor one can touch the joists with your hand. Their cold clay or stone floors, damp and rotten walls, and timber work of the most common home-grown wood, is worm-eaten and rotten. The upstairs or lofts of the cottages cannot be used for any purpose. The terms on which the Duke is willing to grant perpetual feus of their building areas on which buildings have been erected are :—1st. Ground rent of building areas at rates from 5*l.* to 10*l.* per acre per annum. This is an increase of from three to six times the present rents. 2nd. Redemption bonus of the existing building to be three times the yearly value of the houses, as set forth in the 'Valuation Roll.' One of the conditions, No. 16, of 'feus and building sites' is, that the feuars shall bear the whole of the expense of the Feu Charter, which amounts to 1,531*l.*, or about 8*l.* per house. If all the cows that pasture on the village hill, numbering about 135, were sold, the amount would not suffice to meet this demand only. The feuar may well be astonished at the amount of this charge, and also that his Grace puts the whole of this tremendous burden on them. I refrain from going in detail into the other conditions, many of which are of the most onerous description. Happily there are not many landlords who would act thus. When these demands are in addition made upon poor and helpless tenants, they give rise to grave and serious reflections. In order to give some idea of the state of affairs before the railway came through the district, I may state that there was generally neither a butcher or baker in the village. It is not easy to realise and understand what this statement means. I don't think anyone, unless he had opportunities of observing for himself, would believe to what extent self-denial and the practice of penurious and frugal habits could be carried. To this the tenants were compelled by the oppressive conditions of their landlord; which were made harder as time went on by the raising of the rents of their small holdings, and in taking away the land altogether from some of them."

Chairman—continued.

Mr. *Renshaw.*

423. What date did the railway come through?—About 1860, I think, but I cannot exactly say the date. "I understand there is no part of the ducal estate where the rents are better collected than at New Castleton. To enable the tenants to pay their rents it is no uncommon occurrence for tenants to deny themselves the bare necessaries of life. The respective tenants inform me that they pay the Duke for land at Townend equivalent to 37*s.* 6*d.* per acre; Townfoot, 33*s.* 9*d.*; and at Millholm, 34*s.* 3*d.* It is to be observed that the village has no residents having a status above that of the working and labouring man. Notwithstanding, the inhabitants, as a village, are second to none in the United Kingdom for their high character and intelligence. The parish of Castleton, which is a very large one, has one police constable, who is stationed at New Castleton, but there would scarcely be any necessity for him, if it was not for the tramps which traverse the district. At New Castleton crime is unknown; temperance is the rule. So satisfactory is the position of the village in this respect that it may be said that there is no drunkenness. The people are a most peaceable, industrious, and plodding community, many of them leading poor, but simple, good lives. They have the fault, if fault it can be called, of showing a certain amount of dour independence. They speak the Lowland Scottish language with a soft accent which is very pleasing. Since the railway was opened an improvement has taken place, as it gives employment to a good many men belonging to the village, and the young people now get easily away to service, and help the old people at home. At the same time, there is, and always has been, a constant emigration going on; for young men, as they grow up, are totally unable to find employment or support in their native place. With respect to the sanitary state of the village, the system of sewerage and drainage works and water supply, as now generally applied in towns, is, I conceive, not suitable for this village, principally owing to the class of houses; besides which, as things are in the village, it would be cruel to call upon the tenants to be at that expense. With the exception of a very few, they could not pay it. The village is not like many; it has nothing to come and go upon. To carry out a proper system of sewerage and water supply will be no small matter, and quite beyond the means of the poor feuars. His Grace, under No. 11 of the Conditions, takes very great care to provide

Mr. *Renshaw*—continued.

provide that in the event of such works ever being constructed, the expense shall be saddled upon the shoulders of the unfortunate feuars. In the present position of the village, what I would recommend for its sanitary improvement is the adoption of the cheap and simple method of 'Moules Earth Closet System.' Earth is employed to absorb and deodorise, which it does most effectually. The houses of the village with their gardens would be a very suitable place for the adoption of this plan, and with proper and systematic surface cleansing is all that would be necessary for the sanitary improvement of the village. Much would depend on the inhabitants themselves in carrying out 'Moules System,' and therefore let them bear in mind the necessity of doing so, or else a worse state of things will befall them. It may be pointed out that the tenants at New Castleton are in much the same position as that of the crofters as given in the evidence which led to the Crofters' Holdings Act, and that Act (with Dr. Clark's Amendment Bill) is what is required at New Castleton, or a Local Government Bill on the lines of that passed for England, which will give the tenants land as allotments with security of tenure, fair rents, and enlarged holdings. When such a Bill is brought before Parliament, I trust a step further will be taken, and give to Scotland the power to permit the establishment of industrial occupations, where, as at New Castleton, such is urgently demanded. I may observe that there is plenty of bog and moorland around New Castleton inviting to be reclaimed, and that the 172 tenants in the small houses have nothing but their two acres and a stent by which to make a living, and the same applies to the 50 tenants in the larger houses having four acres and a stent. The Duke draws in rents about 1,000*l.* a year from the village, 100,000*l.* since it was founded. In its history no one ever heard that the inhabitants ever had occasion to express their gratitude for any favour ever granted, except to the 'Good Duke Henry.' If this is doubted let anyone endeavour if he can find the slightest evidence that a Duke showed any interest in either the material or moral welfare of the place during the 100 years. I have endeavoured to show the true state of affairs, how the tenants and the village have fared in the past. Exacting and oppressive as that has been, it pales before the monstrous terms and conditions now sought to be enforced in granting perpetual feus. What was much required for the village from the first, and now more than ever, is the establishment of some industrial occupation, apart from the land, and a woollen mill has always been spoken of since the village was founded, but one Duke after another set his face against anything of the sort. The village is dull beyond conception, for there is no circulation of money in the place. The establishment of a mill spending 40*l.* or 50*l.* per week in wages would bring new life and bright hopes to which this village has hitherto been a stranger. In the summer months this classic land of Liddesdale, with its lovely river, has been much sought after by visitors and anglers, but the house accommodation in the village is such as not to encourage such visits.

Mr. *Renshaw*—continued.

An institution for social meetings with free library and news-room is very much required. There ought also to be a cottage hospital, which could be brought into requisition when any epidemic broke out. The supply of water to the village was originally by pumps, drawing the water from shallow depths. Most of these have very properly been abandoned as objectionable, and excellent supply has been brought from pure springs to the Middle Square and Townfoot. What is required is for his Grace to carry the supply to the Townhead."

Mr. *Maxwell.*

424. Who brought in this new supply?—The railway company. They got a very suitable supply for their locomotives and made an arrangement with the Duke, and brought it into the square. "I know and have seen that the pump in the Townhead Square draws at times polluted water. It is about two years ago when it transpired what the terms and conditions were on which the Duke would grant perpetual feus. From that time until now has been a most trying period for the villagers. Petitions were sent, and deputations of the feuars had interviews with his Grace, and also with his factor; besides which the Press of Scotland rendered great service in making the position of the village known, but all proved in vain, and a deaf ear was turned to every appeal. At last the position of the inhabitants of the village appears to have excited compassion in the neighbouring towns. Assistance came to help, if possible, against the oppressive *régime* under which the village for a century has had to struggle for existence, and steps were taken to bring the position of the village before this Committee. Soon after this announcement was made a notice was issued by the Duke, dated 2nd March 1894, signed by his factor, Mr. Yorstoun, as follows: '*Notice.* — Representations having been made to his Grace the Duke of Buccleuch that some of the tenants of houses in New Castleton may not be able to take perpetual feus of their respective holdings, the undersigned is authorised to make known to all concerned, that in place of perpetual feus, present tenants will be permitted to renew the old leases of their holdings for 35 years on the same terms and conditions as before. All tenants of houses in New Castleton are requested to state clearly to the undersigned within one month whether they wish to take feus or renewed leases for 35 years. The cost of feu charters for single areas will be restricted to not more than 50*s.* besides outlays for stamps, &c. There will be no charge to feuars for survey or plans.' No one who knows the village can be surprised at such an announcement. It is perhaps necessary to re-state the fact, that the village exists upon the two acres and a stent granted to 172 tenants and four acres and a stent to 50 tenants, and, as his Grace very well knows, there is no trade or industrial occupations whatever, and the question may well be asked what can be the object of his Grace in making such outrageous demands in connection with the granting of perpetual feus. The opportunity given of renewing the

Mr. *Maxwell*—continued.

the leases for 35 years on the same conditions as before relieves the tenants of the excessive strain to which they have been subject, simply postpones the evil day, and does not really improve matters. I have no hesitation in saying that the bulk of the houses in the village are in such a state that they will not stand 35 years; and those who wish to maintain or rebuild will do so knowing that at the end of 35 years the whole passes to His Grace, or they must accept the very unreasonable conditions laid down for taking perpetual feus. Whichever they adopt the tenants remain in the same position as regards the land or fields attached to the houses, which they hold on yearly tenure, and therefore are tied body and soul to the Duke's factor. What is required, is that the tenants who have held the land and paid full value for it during 100 years' should now have a fixed tenure, not only in the house stances, but in the land or fields, at a yearly charge, on terms fair and reasonable. Many of the conditions are of the most erroneous description, and are altogether unnecessary; for example, No. 4; 'The dwelling-house to be restricted to the single occupation of one family.' At the present time there are many houses occupied by two tenants, an aged man or woman living alone in one end, or room, while the other end has another tenant, and it answers very well, and one would think that no one could object to such an arrangement. According to this condition, an aged couple, with a married son or daughter, cannot live together under one roof. No. 10: 'The feuar shall, with the opposite feuar, make and maintain roads wholly at their expense along the boundaries of the feu, and the Duke to have power to open the same to the public,' is altogether a most unreasonable condition. The feuars have the access to their gardens. If it is found desirable to make new roads, it is clearly the duty of the Duke to do this at his expense. No. 11: With respect to the sanitary improvement of the village, I have already expressed how this is to be accomplished, without having recourse to expensive sewerage and water supply works, but should hereafter steps be taken to carry out a system of sewerage, this would be done, I presume, by forming a sewerage district under the Public Health Act, in which case the cost would be met by an assessment levied equally on landlord and tenant alike. To guard against this, the Duke, in his articles of feus, makes it a condition that the feuars bear all the cost. Without going into this matter further, I beg to state that I am convinced that, in the present poor position of the village, to attempt to carry out a proper system of sewerage and the necessary water supply, and throw the expense on the tenants, is a dream which cannot be realised. I think it is evident that the scheme, as proposed by the Duke is alike unsatisfactory and unworkable. The tenants whose fathers and grandfathers built the houses, fenced their allotments, reclaimed the land, and converted it into rich pastures. This they did, and paid in rents full value for it during 100 years. The Dukes of Buccleuch have during that period received some 100,000*l.*, and the tenants have, I think, some claim to at least fair and reasonable treatment. No one, I think, will consider it a proper proceeding on the part of his Grace, that he is prepared to give a perpetual feu or lease of the house stances, and will only give a yearly tenancy for the fields. What is required is a fixed tenure not only in the house stances, but in the fields, and that on terms fair and just. Besides this, the area of land attached to each house is much too small for a man to labour at and occupy his time, by which he can make a respectable living and bring up a family. The most intelligent of the tenants are of opinion that the area of the land, which in the district is nearly all pasture, should not be less than 10 acres. There is plenty of bog and moorland around the village inviting reclamation. No. 12. Another condition, which states that 'the feuars shall not be allowed to have a steam engine, nor carry on a distillery, brewery, candle works, soap or tan works, &c.' The longed-for woollen mill or any other industry to give occupation to the people must not be thought of, they must therefore leave their native place and the stream of emigration must just go on as heretofore. At the present time, I dont think there is such a thing as a steam engine in the parish. It appears to me to be very wrong on the part of his Grace, that he will not allow a steam engine to be erected on any feu, a proceeding barring the way to the prospect of seeing any industrial occupation established, where something of the sort is so much needed, to give employment to people ready and willing to work, and cannot obtain it. His Grace has no residence in the parish; he has a shooting-box about four miles north of New Castleton, and he or his friends come every year in the shooting season, starting from Langholm, shooting over the moors, sending on their conveyances, with their feeds of corn for the horses which are taken into the Farm of Blackburn, but they never on any occasion come into the village and honour it by their presence; on the contrary, they invariably skirt poor New Castleton on their way to the shooting-box. The person of his Grace unfortunately is not known in the village. I question if more than three or four people would know him if they saw him. I feel it a great privilege that I have been permitted to come before this Committee on behalf of the people of New Castleton, and for the opportunity given me I beg heartily to thank you."

Mr. *Maxwell*—continued.

Mr. *Baird.*

425. You say that the Duke of Buccleuch has been in the habit of deriving a rent of 1,000*l.* or thereabouts a year, and for 100 years of course that amounts to 100,000*l.* Has the Duke of Buccleuch during all that time never expended any money in the parish or village, or has this 100,000*l.* been absolutely net?—I should think almost net with this exception: A man was employed to cleanse the village, that is, to keep the roadside and footpaths, up to about 20 years ago, and it was then found necessary to employ an additional man to keep it scavenged better, and I believe the cost of that has been thrown upon the rates, but the Duke contributes 10*l.* yearly towards that purpose. I think, with the exception

Mr. *Baird*—continued.

tion of that the whole revenue he has received is net, for I never heard of him doing anything in any way to the village.

426. Who made the roads?—I suppose the road trust.

427. When the village was founded?—The road trust go through the village, I presume.

428. But you do not know it?—The road trust go through the village no doubt.

Mr. *Maxwell.*

429. Do you reside in the village?—No? I live in London. I am a native of the village, as I have stated. I was born there, and as I state, my great grandfather built the first house, and I generally go there every year. I generally spend part of my holiday there, fishing, or whatever it may be. I am fond of the place, and I generally go there. There is a beautiful river there for trout fishing.

430. There are two inns in the village, are there not?—Yes.

431. With good accommodation in them?—Not so good as it was. I generally used to dine at the inn, but I did not sleep there.

432. Are there many who go there, like yourself, for the sake of fishing?—No, there is no accommodation in the village. The hotel used to be very good in previous times, and people used to come from towns even to it.

Mr. *Baird.*

433. Is the fishing free?—No, a ticket is required, obtainable on very moderate terms. It is a very pleasant place to spend a holiday. It is beautiful country round about. It is a nice place to spend a quiet holiday.

Mr. *Maxwell.*

434. Do you say there is a water supply provided by the railway company?—They brought the water into the middle square, and a good many of the houses along the route, at the lower part of the town, have availed themselves of that water.

435. Do you know if that was done entirely at the expense of the railway company?—Yes; the Duke gave them permission to get their water for locomotives from the well called the Minister's Well, which is a very good spring.

436. I think you said that it would be desirable for the village if there were some greater industrial employment?—Yes, I think it would be good to have some industrial employment.

437. Do you think that that can be brought about by the local authority, the County Council, or some other body?—Without the permission of his Grace the thing could not be done.

438. Do you think it would be well to try to do it without his permission?—I do not think such a thing would succeed. He owns everything round there, and without his permission and sanction nothing can be done. Something is wanted for the employment of the persons there.

439. They have not sufficient employment on their land, have they?—Of course not; two acres of land with a stance and a cow is not sufficient to occupy them.

Mr. *Renshaw.*

440. I should like to know whether you can give us any idea of what you think the income from the land would be in the case of those individuals from this village who had two acres attached to a stance on the village hill?—I could not give that off-hand. I could not say off-hand what it would be separate from the other, but I think, in round numbers, including the feus or the allotments of the stances and the land which is attached, brings in about 1,000*l.* a year.

441. To the Duke, do you mean?—Yes.

442. I meant to the individual. What would that agricultural property produce to the individual?—I could not tell what that would produce; it depends upon the cultivation.

443. But I imagine from the description you have given of the habits of the population that they would cultivate it very industriously. Can you give us the slightest idea of what they would get year in and year out?—Out of two acres of land?

444. Yes, and a cow; that is practically the only source of support for the family, is it not?—That is the case.

445. I want you to tell the Committee approximately what you think would be derived from these smaller crofts as distinct from the 50 larger ones to which you referred to which four acres were attached?—It would be a very small amount, but I could not tell you. You are quite as able to judge what two acres of pasture land would produce, I think, as I am. I do not know I am sure what the amount would be.

Captain *Hope.*

446. You say two acres of pasture land?—Yes; the whole of the land is pasture land.

447. I thought the crofts were cultivated?—They are cultivated, but for grass and hay for feeding their cows.

Mr. *Renshaw.*

448. But you have given evidence that there are practically 550 acres available for these 222 houses, each of which is occupied by a single family, have you not?—I do not think I said 550 acres; I kept to the individual quantity.

449. You said there were 172 small houses, did you not, with two acres attached?—Quite so.

450. And there were 50 two storey houses with four acres attached, were there not?—Quite so.

451. That is 550 acres?—That would be about it.

452. Supposing that the produce from each acre was about 4*l.*, which for myself I should judge would be a very fair amount to get out of it, that would practically give about 10*l.* as the revenue for each family from each croft, would it not?—Well, I suppose that would be about it, but you have not deducted what they have to pay to the landlord.

453. I am calculating that they make that sum above the rent to support themselves and their families?—I should think scarcely so much.

454. Practically then with a population of this kind in such a neighbourhood as you have described

Mr. *Renshaw*—continued.

scribed, and what they have got to subsist upon, it is an absolute impossibility for them to live unless they get money from other sources, is it not?—It is almost surprising how they can live upon the small amount they earn; upon my word that is the case.

455. But practically it would be absolutely impossible on 10*l.* a-year, with a population such as you have described, which amounts to 4½ to a family, to maintain life on 10*l.* a-year, would it not?—Yes.

456. So that there must be money coming in from outside sources, which makes the village as fairly successful as it is?—No doubt there is money coming in from outside sources from relatives from America and Australia, where some of them have gone, and different places. Many of the sons and daughters are also employed, and help the old people considerably.

457. The point I want to bring out is whether it is possible for this village, which is a most interesting village according to the evidence we have had, to support and maintain out of the land they have got, the population which is dependent apparently upon that land, and that, you agree, is not practicable?—I think so. I am of opinion if they had the land for nothing they would have a bare subsistence then.

458. I understand the position they occupy then, is a position which is altogether incompatible with existence unless they receive money from outside sources?—Yes.

459. And they cannot maintain themselves, can they?—No.

460. So that unless there was money coming in from outside sources you would, owing to that fact, have a certain amount of this population going away, and seeking outlets in other directions?—Yes, that is the case.

461. And the only thing that keeps them there is the fact, is it not, that they have got these small bits of croft?—That is so.

462. It would not be unfair to infer from that, would it, that to a certain extent it is unfortunate that they are there with those small crofts which apparently induce them to remain there, but which are unable to afford them a sufficient subsistence?—Yes; I agree with you.

463. You made a suggestion in your evidence in regard to the establishment of industrial occupations by public authorities, did you not?—Yes; I should like to say I have a strong opinion upon that matter. In the Crofters' Holdings Act there is power given to assist the fishermen under certain conditions.

464. Out of the public funds you mean?—Yes; and I think, when a village such as New Castleton is, and situated as it is, is prevented from exerting its own power itself, to get some industrial occupation, the State should in some way or other recognise the necessity of establishing some industrial occupation to give employment to the people.

465. Have you considered, in advancing a theory of that kind, what the effect of the State intervening and taking such steps as that would be upon other neighbourhoods where, through individual effort, and through other circumstances, occupations of the kind that you deside-

Mr. *Renshaw*—continued.

rate in New Castleton have been established?—I would not use the word "State" in such a matter; what I really mean is to give even to the town council or the local board under certain restrictive powers of the Secretary of Scotland, or whoever it may be, powers in such a case as this. Something is wanted, and some power ought to step in to give assistance to the village.

466. Out of what fund would you propose to do it?—I do not think there would be any fund required for such a purpose as that. I say in my evidence, "to give encouragement." I do not propose any fund to be given by the State, but that encouragement should be given to the inhabitants, and an encouragement to some one to establish a factory in this neighbourhood. There are all the advantages, such as water supply and sheep wool, and I am sure men from Hawick or Galashiels would only be too glad to avail themselves of the opportunity. They could get labour cheap. I do not wish the State to interfere or supply funds, but to give some encouragement to get the necessary land or water to drive a mill, and so forth.

467. But I think you told us this was a village in which there was practically no money; you said it was a dull village and had no money?—The money would not come from the village.

468. But from outside sources?—From outside sources.

469. And would you attract it there by giving people outside the village the opportunity of acquiring compulsorily land which they could devote to these purposes?—Yes, if you put it in that way; that is, perhaps, my meaning.

470. Do you not think a proposal of that kind can be carried into effect over the whole country?—No, not at all; it would be only in very exceptional places. I can quite conceive other places in Scotland situated as this village of New Castleton is, where they are not allowed to do anything, and something ought to be done to give employment to the people apart from the land.

471. But the suggestion you have made would be applicable not only to New Castleton, but applicable to almost all the crofter villages in the north of Scotland, would it not?—Well, if the county council or any authority considered such a thing would be for the good of the public, it should receive such consideration.

472. You would not suggest, would you, under any circumstances, that any public money should be used for any such purposes, either in the village you are speaking of or in any other part?—Quite so.

473. You would deprecate that, would you?—Yes.

474. The previous witness told us something about the people being so much tied to the spot, and that they could not go away. Can you tell us what the reason for that is, because I understand from the evidence you have given us that you yourself being a native of this village, have come away and come up to London, where you have established yourself?—I came away as a boy you may say, and under different circumstances. If you put the question to me why they do not come away when there are such

Mr. *Renshaw*—continued.

bad arrangements with regard to the village, I say it is a very difficult thing for people to root themselves out of a place where probably they have a house and little home. It is a re-starting in life, which is a very different thing to people leaving a place in youth.

475. Still, a great many people have to do it, have they not?—Yes, of course they have.

476. Have you ever had cause to regret the fact that you left New Castleton and came up to London, speaking now with the view of illustrating whether it is not desirable that a larger portion of the local population there should be encouraged to come up to London and follow your admirable example. Have you ever had cause to regret having left New Castleton, and coming up to London. Should you be as well off as you are now had you remained in New Castleton?—I do not know. I am afraid I am scarcely able to answer the honourable Member about that. All I can say is, I am very fond of the place, and I find myself there every year, and I like to go among the people there.

477. For a short period?—For a short period.

478. But as a matter of fact, if you had remained there you would not be as well off to-day as you are, would you?—I think that is very evident.

479. You would, therefore, rather offer yourself as an evidence to the people of New Castleton that if they look about and move about in the outside world, there are opportunities for them as well as for others?—Yes, but probably they would not have the opportunities I had in my youth.

480. They might not use them as well?—But I had opportunities which a great many had not.

481. I ask you the question, because it seems to me that great benefit would be conferred on your native town if a great number of the population were encouraged to follow your example?—They are encouraged sufficiently now from necessity.

482. But apparently they do not act upon it, do they?—The village is the same size, I suppose, as it was in 1793, there is very little variation.

483. But surely there are very considerable improvements in the village since that, because you told us that in 1860, before the railway company came, there was no butcher or baker. I imagine there is a butcher and baker there now?—Yes, since the railway came.

484. And there are two public-houses and four churches. Can you tell us whether there are a very large number of large farms in the immediate vicinity?—Yes, all round the district—all the other part of the parish is large farms, sheep farms.

485. And the people all come into New Castleton to church, do they?—No, the Established Church is about two miles away. The other three are in the village.

486. Are they mainly occupied on Sundays by the villagers themselves?—Yes.

487. Of what denominations are the other three churches?—There is Mr. Smith's, the

Mr. *Renshaw*—continued.

Free Church of Scotland; the United Presbyterian, and there is the denomination which I can never remember, but I remember them by the name of Morrisonians—they have got a new name.

Mr. *Baird.*

488. The Evangelical Union, is it not?—Yes.

Mr. *Renshaw.*

489. These inhabitants support these churches and three resident clergy in connection with them, I suppose: and they are principally used, you told us, by the inhabitants of the village?—Yes.

490. So that practically, although this village is so impecunious—so poor—they are able to indulge the luxury of two public-houses and three churches, which they provide out of money from some source or other in the village?—Yes, but people travel through the place.

Mr. *Maxwell.*

491. But the farmers in the parish also support the churches in the village, I suppose, do they not?—Yes, some of the farmers come there.

492. The churches are not dependent are they, only on the inhabitants of the village?—Principally.

Mr. *Renshaw.*

493. Is there any resident writer or lawyer in the town?—No, none. I may state that recently, in connection with that question, the agent of one of the banks at Langholm used to come over once a week, but recently, within the last 12 months, they have established a branch, so that there is a constant resident banker there.

494. So that there is a writer and a banker there?—He is not a writer, I believe.

Mr. *Maxwell.*

495. Is not there a weekly market in New Castleton?—No; there are periodical fairs, and there has also been established of late a place for the sale of stock, a mart.

496. Is there a weekly sale in the mart?—No; during the summer there are a few.

Sir *Charles Pearson.*

497. Do you know anything about the pauperism in the parish?—No, I could not give evidence about that.

498. You do not know whether there are any paupers, in New Castleton, or whether there are not, do you?—Some of the people are assisted.

499. By out-door relief do you mean?—By out-door relief.

500. You do not know how many, do you?—No, I could not give you information on that point, but I know that there are many who get relief to a considerable extent.

Chairman.

501. Do you hand in to the Committee the Conditions of feu of building sites issued by the Duke of Buccleuch?—Yes. (*The Conditions of Feu were handed in.*)

Wednesday, 2nd May 1894.

MEMBERS PRESENT:

Mr. Donald Crawford.
Sir John Kinloch.
The Lord Advocate.
Dr. MacGregor.
Mr. Maxwell.
Sir Charles Pearson.
Mr. Renshaw.
Mr. Thomas Shaw.
Mr. G. A. L. Whitelaw.

THE LORD ADVOCATE IN THE CHAIR.

Mr. MORDAN CARTHEW-YORSTOUN, called in; and Examined.

Chairman.

502. WILL you state to the Committee what you desire to say, in your own way?—On the 7th and 9th of March 1893, I wrote two letters to Mr. Wilkinson, Labour Sub-Commissioner, which are quoted in the Report of the Royal Commission on Labour, and which give as full and general an account of the village of New Castleton, its tenure, and the tenure of the village fields and cows, grazing, called streets, as I can draw out, and I should like to be allowed to read them, and to add them to this statement; though partly quoted in the Labour Commission Report, they would not otherwise be available for this report. May I do so?

503. I may say we have the opportunity of seeing what is in the Labour Commission Report. But if you desire to add those two letters, you can hand them in; perhaps that will be the best way. If there is anything in them you desire us to know which would give rise to questions, you can just read it. You can just exercise your own judgment about it. (*The letters were handed in, and are as follows:*—)

"7th March 1893,

"Irvine House, Canobie, N.B.

"E. Wilkinson, Esq.

"Dear Sir,—The circumstances of New Castleton are singular, and I know of no other place like it. About 100 years ago it was laid out for a hand-loom weaving village, and building lots were let for 99 years. There were 260 of such lots, of which about 222 were taken up and built on between 1793 and 1800. Each lot was about 20 poles, but size and rate varied a little. The whole area let on building leases was 40 acres, and the total ground rent is 52*l.*; so an average can easily be calculated, though it might be misleading. Then the land round the village was divided into small fields, and each tenant of a building lot became tenant of a field or two from year to year, at rents varying as to quality. There are 311 of such fields, measuring 775 acres, and the total rent is 634*l.* So again an average can be made. No change has, I believe, been made in the rents of the fields held in regular succession from

Chairman—continued.

original tenants, though, when land has changed into new hands, there has been at times a revision, *i.e.*, increase of rent. Although at first attached as yearly holdings to the house lots in the village, that has long since ceased to be the case. For various causes, some having lost their fields, and some of the more enterprising having acquired several, sub-letting has always, but not always with success, been forbidden by the estate rules, and the admission in the estate books of a tenancy of fields, even though only yearly, has been, and is still, much sought after; village houses being often sold for more than their value for the sake, or on the strength of, the supposed goodwill or hope of possession of the tenancy of the fields, though they by no means went together as a matter of course. New Castleton has no trade or manufacture, and it is difficult to understand how it gets along, but in spite of that it is a most contented, comfortable, self-supporting community—no riches, but no poverty—and I ascribe that in great measure to the possession of the fields and stents. The former are for the most part admirably managed, sometimes for hay, or corn, or green crop, potatoes, as the tenant finds most profitable, there being no restrictions as to cropping—though probably the original intention was that the fields should supply meadow hay for the cows summered on the hill. But all the land is not alike, or first-class meadow, and will not grow hay every year, and so it has come about that each tenant of fields has been allowed to treat the land as he thought most profitable, and the privilege has not been abused. I have no record of the average held by each village tenant, and so cannot give you a return of the holdings under 10, or 25, or 50 acres. The principal reason for your being able to notice some of the houses in the village in bad condition is that the 99 years' lease began to expire last year, and the tenants have not been definitely informed of the details of the new tenure of the house lots that will be offered to them, though they now know that permanent feus will be given at increased ground rent, and

Chairman—continued.

a small 'redemption,' probably three years, of the value as in the Valuation Roll, for the buildings. If you think of going to New Castleton I shall be happy to try and meet you there, but just at present I am rather out of health, &c., &c.

"M. CARTHEW YORSTOUN."

"9th March 1893.

"Irvine House, Canobie, N.B.

"E. Wilkinson, Esq.

"Dear Sir,—I quite agree with the general principle that more land than enough to keep a cow or two, or than a man in full work otherwise can cultivate as a garden is no boon, but a snare. New Castleton is no exception to the rule, for I do not think there are any of the small tenants of the village fields who live solely by the produce of those fields. All are either working people in some way or other, or have other means of livelihood, or assistance from members of their family all over the world, who I know make great efforts to help the old home and the land together. A certain proportion too are men and women who have retired from active life with some sort of competence, and have gone back to the village, having obtained the ambition of very many of the class, namely, possession of a little land. That there is little actual poverty in the place is proved by the fact that the poor rate is only 3*d.* per pound. For many years I was puzzled to understand the place, and how the people lived with such evident signs of modest comfort and content, and even now I cannot say that I do fully understand it; but that the permanency of tenure—99 years of the houses, and the practical permanency of tenure of the fields and stents, though, in fact, only yearly tenancies, have had much to do with the unique position and circumstances of the village. I am quite satisfied the management by the villagers of the common hill for stents is itself a curiosity. They have a committee appointed at a public meeting every year, and they make their own rules, and keep them too, without any interference from the estate management. Only once in 16 years has any complaint been made to me of infringement of their rules or customs, and *then* I left it to the committee to settle. In short, it is a small, contented, comfortable, law-abiding, thriving village republic that swarms off its younger members to all parts of the world, many of whom rise to eminence, most to competence, who in their turn help on succeeding swarms. The place as it now exists could not have been designed. It has just grown by force of circumstances above alluded to, aided by the national characteristics of the Border people, thrift, perseverance, hard heads, and good constitutions, for I may add that it is particularly healthy. When the new tenure of house property has been a few years in work, I shall expect to see the appearance of the village much improved. It was not unnatural that many should fear to spend money on house repairs in the last few years of their lease; but not so all. For I know of instances of new houses being built just before leases expired, in full confidence that the Duke of Buccleuch would be just with them, &c., &c., *M. Carthew-Yorstoun.*" The letters contain a general statement. I should like to say something more as to detail if I might.

Chairman—continued.

504. Of course.—When I wrote those letters they were not meant for publication, but I can add little to them as to the *general* condition of the village, though I wish to make a further statement as to *details*. The village of New Castleton was laid out in 1793, and building leases for 99 years were given, and constituted by entry in the Duke of Buccleuch's estate books. At first a lease, also constituted by entry in the books, for 14 years, of a certain amount of land in the neighbourhood, and of a right to graze one cow on the hill near the village, called a stent, was granted to each tenant of a house lot in the village who built a house on it. From the year 1818 the estate books have no entry of further leases of these fields and stents, and the books from 1800 to 1818 are not in my possession, so I am not aware if the first given leases of 14 years were extended between 1807, when they expired, and 1818, when the books show no further leases; but from this time to now both fields and stents have invariably been let from year to year. Houses have never, to my knowledge, been sold with the fields; on the contrary, whenever deeds of conveyance or assignment of the houses have contained any reference, as they sometimes have, to the conveyance of the fields or stents to the assignee of the leasehold property of the house and site, I have always noticed in it that the "House only is rentalled," as the lands are held from year to year. Every one in the village is well aware of this, and it has never been claimed in my presence that there was any other tenure. The estate rule against sub-letting fields or stents has been uniform, though often broken. In a very few instances only, and as acts of charity, old people have been allowed by the estate management to sub-let when not able to work the land themselves, or keep a cow on the hill. But still several instances have lately come to my knowledge where sub-letting has been practised, without sanction, and without the excuse of poverty; for instance, Mr. Smith, Free Church minister, rents land, five acres for 3*l.* 10*s.*, and a stent for 26*s.*, total 4*l.* 16*s.*, both of which, I am informed, he sub-lets.

Mr. *Renshaw.*

505. Would you give us the figures again?—Land, 5 acres for 3*l.* 10*s.*, paid to the estate, and a stent for 26*s.* 9*d.*, both of which he sub-lets, I am informed; the field for 7*l.* 15*s.* and the stent for 2*l.*; total 9*l.* 15*s.* And another tenant in the village, who rents 16 acres 3 roods 1 pole for 12*l.* 13*s.* 9*d.*, sub-lets at 20*l.* 10*s.*, and I believe there are other cases which there is a difficulty in tracing. It has appeared in the public papers that Mr. Hall, a witness before this Committee, stated in his evidence he and other members of his family had, in 1879, been deprived of land held with their houses in the village "for political reasons." I wish to deny this emphatically. I have been in charge of the Duke of Buccleuch's estates of Eskdale and Liddesdale, which include New Castleton, since 1876, and can speak with confidence as to what has taken place there since that time. Never since 1876

has

Mr. *Renshaw*—continued.

has any one, farmer, cotter, or village tenant, or any one, been deprived of land, or house, or privilege of any sort, for "political reasons." If it had been intended to carry out such a mistaken policy, it would not have been confined to the few instances charged in New Castleton. For it is notorious that large numbers of the villagers hold political opinions opposed to those of the Duke of Buccleuch and his family. If a proof of the real independence of the village tenants were wanted, it would be found in the fact that many—too many—are openly hostile in politics, yet have no fear of consequences to themselves, and their confidence has been justified. The real cause why Mr. Hall and some others were deprived of their lands at New Castleton in 1878–79, was that they did not live in or near the place, but sub-let the lands to others without the consent of the estate management being asked or given, and for higher rents than they were paying the estate. I give instances here in this statement. Shall I read them or would you prefer to have them in the print?

506. Are they long?—No, Sir.

507. Perhaps you will let us hear them?—Thomas Hall, lot No. 132, 2 acres 3 roods, rent 2*l.* 4*s.*; sub-let to James Robson for 3*l.* 6*s.* 11*d.* In 1878 the land was taken from T. Hall and let direct from the estate to James Robson, who has it still. Thomas Hall, lot 8, Mangerton, 2 acres 3 roods 30 poles; rent 1*l.* 0*s.* 6*d.*, sub-let to James Robson for 3*l.* 9*s.* 2*d.* In 1878 the land was taken from T. Hall, and let direct from the estate to James Robson, who has it still. Thomas Hall, lot 25, Greene, 2 acres 0 roods 28 poles; rent 1*l.* 14*s.* 9*d.*, and sub-let to Walter Story for 2*l.* 11*s.* 7*d.* In 1878 the land was taken from T. Hall and let direct from the estate to W. Story. Walter Hall, lot No. 54, 2 acres; rent 2*l.* 12*s.*, sub-let to Hugh Armstrong for 4*l.* In 1878 taken from W. Hall and let by the estate to Hugh Armstrong, who resigned it in 1890, when it was re-let to another tenant at the same rent, there being several applications for it.

508. What does "the same rent" mean?—£4, the sub-letting rent. Lot 18, Walter Hall, 2 acres 30 poles, rent 1*l.* 17*s.* 2*d.* After 1870 2*l.* 10*s.*, sub-let to James Elliott for 3*l.* 3*s.* In 1878 taken from W. Hall and let by estate to J. Elliott, who has it still. The above are samples of the "political reasons" for which land was taken from tenants and given to others! I do not know, and never wanted to know, the political leanings of any of the above named, whether old or new tenants. Indeed I know that I gave considerable offence to some avowed supporters of my own side by treating them in the matter of sub-letting in exactly the same way as others. I have never paid any attention to the supposed politics of any tenant when I have found him breaking well-known estate rules, and I am confident that no one in the village of New Castleton or the whole of the Duke's estates under my charge can substantiate a single case of oppression or partiality "for political reasons." The whole land let for village fields, of which which there are 311, measures 775 acres, and is let in 145 holdings, the average being thus 5½

Mr. *Renshaw*—continued.

acres. The total valuation of the village, including lands, was by valuation roll of 1889–90, 1,098*l.* The valuations vary from 1*l.* 10*s.* to 28*l.* for the Commercial Hotel, and 40*l.* for a good house and shop; and now, 1893, 52*l.* is entered for a new house and bank; area of village, 40 acres; rent of land on 99 years' lease, 52*l.* 5*s.* 6*d.* (that is the whole rent of the village). The area of the fields is 775 acres, total yearly rent, 630*l.*, or an average of 16*s.* 3*d.* per acre. The area of the hill (on which the cows' grazing is) is 700 acres, of which the total rent is 175*l.*, that is 132 stents at 26*s.* each. The total area therefore is 1,515 acres, and a total rent of 857*l.* 5*s.* 3*d.* The actual rent paid for the 132 stents is 175*l.* But the committee of management of the hill have been tacitly permitted to let the winter foggage for wintering young sheep, and they have actually got this from neighbouring farmers at 70*l.* to 90*l.* a year, this money being expended on paying the wages of the herd, looking after the stock, and in draining parts of the land, limeing in some places, and generally improving the quality of the grass on the hill, for which the sum obtained for foggage is a direct contribution by the Duke of Buccleuch, the hill being let for summer grazing of cows only. The estate charge for a stent is 26*s.* or 26*s.* 9*d*; but, in spite of estate rules against sub-letting, it sometimes comes to my notice that they are sub-let, and when so, invariably for 2*l.* As I have already stated, the Free Church minister's stent, and the stents of some other villagers, are sub-let for 2*l.* each, without permission. Land of the good quality of most of the village fields is worth more in these days—from 20*s.* to 30*s.* per acre, if attached to a large farm, while the average paid by the villagers is 16*s.* 3*d.*, and it may reasonably be assumed that the village was laid out in its present situation because of the extent of good land round it. None of it appears to have been reclaimed from bog or heather. It is Holm land in the valley of the Liddle on both sides, and on the easy slopes of the hills trending to the river. Once only, about 1857, there was a general revaluation of the Duke's entire estate by a skilled professional valuator, the late Mr. Asquith, and the village field-rents were then moderately raised. I am clearly of opinion that the owner of this and every other estate was quite justified in reaping some of the benefit from the increasing value, as time went on, of his landed property. Improvements have not all been carried out by the tenants only. Frequently of late years the estate has made free grants of drain-tiles to villagers wishing to drain their fields; I may add that the Duke has for very many years contributed 3*l.* a year towards wintering the village bull. The village having been commenced in 1793 on 99 years' building leases, the leases began to expire in 1892, when 53 leases expired. The Duke of Buccleuch gave much attention to the subject of the new tenures to be given, and was anxious that they should be on liberal terms, suitable to the peculiar circumstances of the village and its inhabitants, and I was authorised to offer to each tenant, on the expiry of his lease, the right to take a permanent feu at rates varying from 5*l.* to 10*l.* per acre, according to situation, and on

Mr. *Renshaw*—continued.

payment of a redemption or composition for the buildings, which by law become the Duke's property entirely, calculated at three years' purchase of the value as entered in the county valuation roll, with the further option of paying this redemption in cash, or paying interest on it at 4 per cent., to be added to the ground-rent. Compared with the general practice with such property in other parts of Britain, these terms are exceptionally liberal and even generous, and that they were not beyond the means of the larger number of the tenants may be taken as proved by the fact that out of about 40 acceptances of feus on those terms, all but two were on the footing of paying cash down for redemption. Still it must be admitted that there was some grumbling and desire to make a better bargain, which was to be expected, whatever terms had been offered; but there was no discontent or ill-feeling, and any such has as since been expressed openly is, I believe, fictitious and factitious, as to which I will offer some grounds for my belief presently. I may mention that as a fair proof that the Duke's terms of redemption by no means exhausted the value of the village properties. I know as a fact that since the terms were made public, houses have been bought and sold at several times the redemption-value charged, *i.e.*, the so-called "tenant-right" conceded of redeeming the houses at three years' purchase, with the power to claim a perpetual feu, has been so sold. Thus, 18, South Hermitage-street, valuation 4*l.*, has been sold by Robert Johnstone to James Elliot for 55*l.*, besides the redemption. Redemption $4 \times 3 = 12l.$; price 55*l.* 44, South Hermitage-street; valuation 4*l.* 10*s*; sold by Archibald Scott to Thomas Gordon for 50*l.*, besides redemption. Redemption 4*l.* 10*s.* $\times 3 = 15l.$; price 50*l.* House in Douglas-square, known as the "Grapes" Inn; valuation 23*l.*, together with a small house in South Hermitage-street, value 4*l.* Both together sold to Robert Wilson for 500*l.*, besides redemption $(23+27) \times 3 = 81l.$; redemption price 500*l.* But it must be admitted that while the price is comparatively exorbitant, it is based partly on the fact that the "Grapes" is a licensed house. The village is a model one in many respects, every house is of stone and mortar, and slate roof, and has a general appearance of cleanliness and modest comfort. Most of the houses are of one storey, but about 50 are of two storeys, good and substantial. The Free Church manse, just completed in Douglas-square, on a lease that will expire in 1898, appears to have cost at least 600*l.* Another, in the same square, on a site expiring in 1896, has just been built at, perhaps, a cost of 300*l.*, and it is valued at 52*l.* Before the new terms of tenure and offer of perpetual feus were made known, the owner of the last-named house pulled down a two-storey house valued at 10*l.*, in complete confidence that he would be justly dealt with; and the confidence has been justified, for he will get his feu on the value of the old house, $10 + 3 = 30l.$, of which the old buildings will have given a large portion, and his ground-rent will be 1*l.* 4*s.* 1*d.* There is a wide-spread and deep-rooted confidence in the whole

Mr. *Renshaw*—continued.

district in the traditionary justice and liberality of the Duke of Buccleuch's estate administration, and it has never been abused. After the offer of perpetual feus had been made public some months, representations were made to the Duke that many of the village tenants were too poor to pay the redemption price asked and the expenses of the feu charter and surveys, and I was authorised to make known that those who wished it might remain on a new lease, constituted by entry in the estate books, for 35 years on the old terms, and that the expense of feu charters would be limited to 2*l.* 10*s.*, and no charge for survey. This was intended to meet the cases that might occur where tenants were really too poor to redeem. But it has been largely taken advantage of by others who had already elected to take a feu, and had said they were prepared to pay cash down; and at this moment the applications for feus have fallen to 28. But I anticipate they will increase when the superiority of a permanent title over a lease for 35 years becomes clearly appreciated. At any rate, the offer of the renewal for that time gave very great and general satisfaction; and at a public meeting called for the purpose in the village a resolution, which I produce, was unanimously passed and sent to his Grace, thanking him for the concession. I will just read the resolution, if you please.

Chairman.

509. Surely?—"Resolution. That the feuars and inhabitants of New Castleton, in meeting assembled, hereby tender to his Grace the Duke of Buccleuch and Queensberry their sincere thanks for, and hearty appreciation of, the generous terms now offered by his Grace to the feuars of New Castleton in circular of 2nd March 1894, in terms of which the feuars have the option of taking a perpetual feu of their holdings or a lease of 35 years." I believe there is now no feeling of discontent or dissatisfaction in the whole village. I said above that the discontent and feeling of "harshness," unfairness, &c., expressed by Mr. Smith, as quoted in the newspapers, was fictitious and manufactured for political purposes, and I am prepared to offer some reasons for saying so. It is, I believe, mainly the fruit of political antagonism. The Duke of Buccleuch's son, Lord Dalkeith, is now before the public as intending to contest the county at the next opportunity; and advantage has been taken, by some of his political opponents, of the revision of the village tenures, to set on foot a fishing inquiry to search for grounds of complaint against the Duke's management. It has lately been brought to my notice that a letter was written to Mr. Vassie, parish minister of Castleton, by the wife of Mr. James Kyle, one of the elders of the Church, as follows (I will produce that letter, it is a very short one): "New Castleton, December 28th, 1893. My dear Mr. Vassie,—Some gentlemen are coming here at the request of the Lord Advocate to learn the condition of the villagers. Would you be so good as come down to the Commercial Hotel to-morrow, Friday, at 11 o'clock forenoon, and give such evidence as you can? Yours most respectfully,

Chairman—continued.

respectfully, *James Kyle. N.B.*—The other ministers are to be present. *J. K.*" This letter was written in pencil by Mr. Smith, Free Church minister, in the presence of Mr. Kyle, whose wife copied it out, and sent it to Mr. Vassie. Mr. Kyle told me that he saw this done. Mr. Smith is believed to be a strong political opponent of Lord Dalkeith. Mr. Vassie went to the meeting, but soon seeing its political tone, went away. The impression on the minds of some of the villagers was that the inquiry was official, at the request of the Lord Advocate, and Mr. Smith's letter was calculated to give that impression. Mr. Kyle informed me that he went to the meeting. There were present Mr. Smith, Free Church minister; Mr. Craig, Evangelical United minister; Mr. Laing, writer, Hawick; Mr. Napier, election agent; and Mr. Edward Wilson, Hawick, a prominent and active partisan of Mr. Napier in Roxburghshire, and chairman of the Upper Teviotdale Advanced Liberal Association. Such villagers, of whom there were a few, as offered to give evidence went into a room one by one, where these gentlemen were sitting, and were asked a number of questions about the land, the rent, &c., if the villagers could pay the redemption money, &c. Mr. Kyle informed me that he went into the room, and was asked questions of that kind, and heard that others were asked about the same subjects. I believe I am justified in saying that an inquiry of this kind, got up by political opponents under the *false* colour of being "at the request of the Lord Advocate," and therefore official, was calculated to fan discontent, and induce the villagers to think that by making out a case of hardship of the Duke's treatment of them there might be some means found for getting better terms for themselves, while at the same time the Duke's family would be made unpopular, and therefore less dangerous at the next election. It was an electioneering manœuvre of a bad type.

510. I understood from what you said that you were fully aware that there was no foundation whatever for the suggestion that I had directed or suggested any such inquiry?—I used the word "false" purposely; I had no such belief whatever.

511. Of course there was no foundation whatever for such a report?—Quite so.

Dr. *MacGregor.*

512. You are commissioner to the Duke of Buccleuch, I understand?—Well, I am officially called chamberlain.

513. Chamberlain, I beg your pardon?—Yes.

514. Can you explain to the Committee the difference between a chamberlain's duties and a factor's duties?—There is none whatever.

515. So that I may take it that you are a factor on this estate?—Certainly.

516. May I ask how long you have been factor?—Between 17 and 18 years.

517. May I further ask if you are a Scotchman?—What means a Scotchman?

518. I am asking you a question, not answering you?—Well, I want a definition. If you wish to know my genealogy, I will give it you. My father was an Englishman, my mother a Scotchwoman, I am a Scotch landowner and have lived in Scotland 35 years. Does that make me a Scotchman, Sir?

Dr. *MacGregor*—continued.

519. You have had the constant management of this village estate throughout your factorial management, have not you?—Yes.

520. So that you know the relationship of the people to the land and to their houses thoroughly?—Yes, I suppose so.

521. We have been told that they have had a perpetual lease, at least a lease of 99 years, of their houses, but that the land was only let from year to year. Is that so?—No, Sir. I read in my statement just now that at first leases for 14 years were given, from 1793, for the land and the stents, but from 1818 onwards, there have been no leases; the tenure has been solely yearly.

522. When you say "the land," do you mean the croft or the plot connected with the house, or both?—No, Sir. I mean the village fields, the fields as distinct from the house lot. There are two distinct classes; the house lot is leased for 99 years together with the field; the village field and the stent were originally leased for one term of 14 years, and never again. They have both been held annually from 1818, so far as my books speak up to now.

523. That is, the houses have been on a lease of 99 years?—Just so.

524. But since 1818 the land has been from year to year?—Yes. Pardon me; I may be permitted to say that the leases were given for 14 years from 1793, the leases expired in 1807. I have no record between 1807 and 1818, but I speak positively from 1818.

525. First of all, let us go back to the reclamation of the land by the people. As I understand it from previous witnesses, this land has been reclaimed by the people themselves practically from the heath, or the bog, as it is commonly called. Is that so?—No, Sir. If you were present when I read my statement you would hear me say that the appearance of the land is such that it has evidently been good land at all times past, and it was probably because it was so that the village was planted there. The land has not been reclaimed from bog and heather.

526. I did not say good land or bad land. I said reclaimed from its original state, that is from its prairie condition. Did not those people, speaking generally, reclaim their own land from its original state?—I will not admit the word "reclaimed." I believe that a large portion of that land never needed reclaiming, it was natural meadow land.

527. You will notice that that is a very different thing from what I ask you. I ask you whether those crofters or villagers have not themselves made those crofts from the original state to bear good crops?—It is not cropping land.

528. Answer my question, please?—Yes; but I am bound to modify it.

529. Did they not make that land yield crops as arable land from a state of natural heath or bog, or hillside, in fact?—No man can say what took place 99 years ago, and I say, speaking as a practical man, that any practical man looking

Dr. *MacGregor*—continued.

at that land would say: This has always been more or less good land; this is holm land. You as a Scotchman know what "holm land" is.

530. I understand this is all good land?—Some has been made better undoubtedly. I will not deny that the villagers have managed their business admirably, but it is not arable land. This land was let to them for furnishing hay and their cows grazed on the hills during summer.

531. That is subsequent to the period to which I refer. You told me at first that you are familiar with the conditions under which the people are placed and on which they hold that land. I ask you therefore, as factor familiar with these conditions, whether these people did not reclaim this land themselves?—I will not admit the word "reclaimed."

532. At the beginning of their leases they reclaimed?—No; I do not know, and no man living can tell me.

533. I will put it in another way to suit you. Was this land arable land before the people got possession of it?—That, again, is impossible to say with distinctness now. You see the signs in the country all round at places where land has been used for arable purposes, where no one now would dream of using it.

534. That is not the question?—Yes, it is, pardon me; a good deal of that land may have been arable even a hundred years ago. I can say no more. No man can say more than that.

535. So far as your knowledge goes of that estate, was the land now in the possession of those villagers not mountain side, or not arable land, when they got possession of it?—I have said, Sir, that it was "holm land," that is not mountain land.

536. Had it been cultivated previously?—How can I tell what happened 99 years ago?

537. So far as you know?—You are speaking of 99 years ago; I cannot profess to give an opinion upon that.

538. So far as you know, was it cultivated land before?—From its present appearance I can judge that portions of it, at least, were capable of cultivation even a hundred years ago.

539. "Capable of cultivation"?—Certainly.

540. That is not what I want to know?—What can I say more than that?

541. I want to know from your experience and knowledge of the district whether this was arable land or not previous to the period at which those people got possession of it?—Well, Sir, you are asking what no practical man in his senses will give an answer to.

542. Then you decline to answer?—No man can give an answer as to what was the condition of that land a hundred years ago.

543. Never mind for a moment what the land was then. At what price per acre did these people get possession of it?—I have a number of records of things here. As I read out just now there was a re-valuation which took place in 1857. I unfortunately did not make myself acquainted with the actual details of it. I can furnish them if required, but the average price in 1857 of the fields is, I think I read out, 16*s.* 3*d.* per acre. Perhaps that is the best answer I can give you.

Dr. *MacGregor*—continued.

544. Sixteen shillings and threepence per acre?—Yes.

545. Is that the land held now by the villagers?—Yes.

546. Would you now tell us the average price the neighbouring farmers pay for their land? Take the Roan Farm for instance?—A tenant told me a few days ago that he would willingly take a shilling an acre for some of his land on Roan Farm. If I let some of that village "holm" land to Roan Farm, the tenant of Roan Farm would willingly give me 20*s.* to 30*s.* for it.

547. My question is, can you tell me the average price?—No, I will not give you "averages"; they are too misleading When you speak of the "average" of neighbouring farms, I cannot admit an average.

548. Stick to the Roan Farm?—I deny that there is an "average" applicable to Roan Farm. It runs from one shilling (which the tenant would be glad to let some of it at) to 20*s.* or 30*s.* an acre, some of it fit for meadow. I will not commit my reputation to an "average."

549. You say the tenant is willing to let some of it at a shilling an acre; is that land cultivated land?—No.

550. What is it?—Stone chiefly—rocks.

551. That surely is not the Roan Farm as a farm?—It is a sheep farm; it carries black-faced stock.

552. What is the rent that is paid for the Roan Farm?—At this moment I am not prepared to say; I have not any notes of the neighbouring farms, but I tell you the tenant of Roan Farm himself told me that he would take a shilling an acre for some portions of his farm; and others again are worth 20*s.* to 30*s.* an acre.

553. Would you allow me to refresh your memory as to the rent of Roan Farm?—Certainly.

554. What is the acreage of the Roan Farm?—I do not know.

555. You do not know?—No.

556. Do you tell me that as a factor you have been there 17 or 18 years and do not know the size of Roan Farm?—No.

557. Although you are the responsible factor to your master, the Duke of Buccleuch?—Certainly.

558. You say so?—I do. I have 200,000 acres there.

559. Would you be surprised to know that the Roan Farm is 4,000 acres?—I am not at all surprised if you say so.

560. Would you be surprised to hear that the rent is 405*l.* per annum?—Not at all surprised if you say so.

561. And that the average per acre at that rate is a little over 2*s.* per acre—2*s.* and a farthing per acre?—That is quite possible,

562. Then you have told us that the average price the crofters paid for their land was 16*s.* odd per acre?—Yes.

563. How do you reconcile these facts, that a farmer gets a better land in that neighbourhood for 2*s.* per acre, and a crofter has to pay 16*s.*?—The whole question, Sir, hangs to the words "better land." It is not "better land."

564. Say it is the same land—admit that for the

Dr. *MacGregor*—continued.

the sake of argument?—I will not admit it for a moment.

565. It is not the same land at all?—As I tell you, the land worth a shilling an acre is mainly rocks; how can you say that that is better than the crofters' lands?

566. I am taking the whole farm?—The whole farm is in some parts moorland and rock; it carries a black-faced stock; it is so bad in some places that I would not put a Cheviot stock on it.

567. Is it not so good as crofters' land?—Most certainly not.

568. Was it not the same land before the crofters cultivated and reclaimed their land?—Certainly not; not by many many times; it runs out in extreme heights to Roan Fell; it is beyond the reach of the village, to begin with, and is some of the poorest, coldest, worst description of land in all that district.

569. Partly?—Yes; I am speaking of this land which the tenant says is worth a shilling an acre.

570. Where do the crofters' own land?—Both sides of the River Liddle.

571. Do the fields not run up the hillside towards the moor?—On the gentle slopes "trending to the valley" is the term I used in my statement.

572. And was it not in its original state undoubtedly the same kind of land as Roan Farm?—Never,

573. You told us that there had been a valuation made of the estate in 1857, or a revaluation?—Yes.

574. And prices were increased; that is, rents were increased?—Yes.

575. On what ground?—On the ground of the general advancement in the value of land in Great Britain.

576. Do you mean that there was a general increase in the value of the land when these crofters reclaimed their own land?—For many years prior to 1857 there had been no revaluation. Up to 1857 there had been no revaluation for many years. The late Duke of Buccleuch employed the late Mr. Asquith, a skilled land valuator.

577. You told us that before?—To value his whole estates upon those valuations certain rises of rent took place; amongst others, the village fields had a moderate rise put upon them.

578. But was not the increased value of that land, that justified the valuer in increasing the rents of the people, the result of these people's own labour?—If that land had been left in a state of nature and absolutely unstocked and uncropped, it would still have been of a higher value in 1857 than it was in 1793.

579. That is not the question. As I understood it, a certain quantity of land was given to these people for a certain rent?—Yes.

580. And after a period of years, during which time the landlord did nothing to increase the value of that land, he revalues the land and increases the rents on the labour of those poor people?—No.

581. On what, then, did he increase the rents?—The natural increase of the value of land. Every bit of land in the country increased in

Dr. *MacGregor*—continued.

value between 1793 and 1857, and every landlord was then perfectly justified in taking the increased value of his lands.

582. Yes, so long as he had expended anything to produce the increased value, in the way of draining, manuring, or otherwise; but you admit that the landlord here did not expend one farthing?—I do not admit it, Sir. I never said one word about it. You did not ask me.

583. What did he do to increase the value of those crofts?—That was long before my time, Sir; I have no knowledge.

584. You are not able to say?—I am not able to say.

585. Can you say that he did anything to increase the value of this land?—I cannot say.

586. But you are able to say that he increased the rents of those lands?—Moderately.

587. How "moderately"? What were the figures?—I have not the figures with me; I am sorry I omitted to bring them.

588. Can you tell us any reason why the landlord should have increased the rents of these crofts?—Yes.

589. Why?—You say "these crofts," I will not call them "crofts"; I do not admit that they are crofts—they are not crofts; there is a great difference between "crofts" and "fields." I will call them "fields"; these fields were notoriously worth more when sublet than the rents paid to the Duke of Buccleuch, notoriously so; and I have given you several instances in which when sub-letting has taken place surreptitiously, the sub-letting has always been very largely in excess of the duke's rents.

590. You told us, I think, that, according to the estate rules, sub-letting is not permitted?—It is not permitted.

591. How then does the landlord permit himself to take an increased rent, because the sub-letting leads to an increase?—Because it proves the value, and the market value is what the thing will fetch.

592. But if you as factor object to sub-letting, why do not you object to an increase of rent?—There is no analogy between sub-letting and rent. These lands are let by the year. I wish to add this, Sir, that no man (with the exception of that one valuation in 1857) has had any rise of his rent. None of the older tenants, the successors or descendants of old tenants, have had any increased rent put upon them from the constitution of the village up to now with the exception of that one period of 1857.

593. Quite so; that revaluation?—Yes.

594. I suppose you will admit that the value of land generally has fallen, has depreciated, considerably within the last few years?—Within the last few years; yes, certainly; I know it too well.

595. You do not receive the same rents from the farmers now that you did, do you?—We do not.

596. I think you claimed more from the crofters, did you not?—Yes, and I will tell you why.

597. Why?—Because the farmers' rents were full rents, but the village tenants' rents have never been full rents; they are not full rents

Dr. *MacGregor*—continued.

now. That is proved by the prices I show you of the sub-letting of fields.

598. What do you mean by the full rents?—The full value of what they will produce; the value for man and beast; what the land will produce; that is the value.

599. If the Roan Farm is let at an average of 2*s.* an acre?—I will not admit that it is.

600. And the crofters pay an average of 16*s.* an acre (we know they pay a good deal more than that in some cases), how is it not full value? How is it that the crofters have not paid the full value at 16*s.*, and the farmers have paid the full value at 2*s.*? Will you explain that?—It is too transparent to need an answer. You ask me the average of a good sheep farm containing moorland, bog, heather, rock, and stones, with a small part of good land attached to it; and you take an "average" of that farm, and compare it to the best Holm land in the Valley of the Liddle. Oh, no; there is no comparison possible.

601. Do the people not have a desire to get more land in that neighbourhood?—I have very little doubt they do; most people want more land.

602. Would you let some of the land on Roan Farm at double the rent the farmer pays now?—To double the average; to let them take the plums out of the pudding?

603. No, I do not say that; these are your words, not mine?—Quite so.

604. I want to know this: do you admit the people would like more land; that is to increase their holdings?—Most probably, most of them would do; there is no doubt of that.

605. The farmer only pays 2*s.* on the average?—I will not admit anything of "averages."

606. You might let these people have it at four times what the farmers pay?—Do you mean the best land on Roan Farm?

607. Say the average land lying alongside the crofters?—That is not the "average"; that which lies alongside the crofters is good land; it is low down.

608. I will put it in another way. Are you prepared to give these people on application an increase of their holdings?—I cannot say what the Duke of Buccleuch may do; but I certainly should not be prepared to advise it.

609. Why not?—One reason that occurs to my mind at the moment is, that I question whether it would be a benefit to the inhabitants of the village of New Castleton, to take them from their present position of being villagers, with other avocations and occupations and means of living, and with a small field of land for their convenience on which to keep a cow or two, and turn them into petty farmers. I question very much the wisdom of such a proceeding; I question very much also the value of it to themselves.

610. Is not every man the best judge of his own business, and if these crofters——?—They are not "crofters."

611. In order to increase what gives comfort and prosperity in life, desire more land, why should they not have it?—They are not crofters.

612. What do you call them?—Villagers.

Dr. *MacGregor*—continued.

613. Villagers?—I think some other witness may be able to tell you more about them; but I think, almost without exception, they are people who have other means of livelihood; they do not depend upon these fields. If they did so, what man could make a living out of 5½ acres?

614. What other means of livelihood have they?—They are retired tradesmen, shepherds, and what not, from other places. There are butchers, bakers, grocers, a considerable number of them. I will not trust myself to figures, because I have not got them officially; but there are very very few indeed who are dependent upon their fields; their fields are merely adjuncts to their other means of livelihood, a means of convenience to them.

615. I understand that: I mean to leave out the tradesmen. I understand there is a population of about a thousand in the village altogether. Leaving out the tradesmen, how does the surplus population get its living?—I remarked in a letter to the Labour Commissioner that the village was a puzzle to me at first; it is a puzzle still; it is evident to everyone, and anyone driving through the village to say: This is a remarkably clean, tidy, comfortable-looking place. How do the people live? I do not see any signs of manufacture; I do not see any signs of great trade. What do they live on? I can scarcely answer you as to how they do live, but there is evident comfort, evident prosperity and contentment.

616. Do you provide labour for the villagers throughout the year, when they are not working on their own land? or, if not, how do they get work?—There are very few young men and women in the village; they mostly go out into service—and to different parts of the world largely—but few remain at home. I think I have been told there are but 11 or 12 who are making their living there by working—labouring; the proportion is very small.

617. Is it consistent with your knowledge that many of those people who go to service and to work elsewhere are obliged to contribute to the rent that their poor parents at home are not able to pay otherwise, in order that the Duke of Buccleuch may get his full rent for this land?—I cannot say. All I can say is, after an experience of 17 years, I have never had one case of difficulty or one of being in arrear; the money is always paid up all right with an apparent cheerfulness and an apparent readiness.

618. But you admit that it is a puzzle to you where that money comes from?—No; I do not say that.

619. It is a puzzle to you how the people live in such comfort, you told us?—That is another question; that is different.

620. Yet you told us—at all events, some of the witnesses have told us—that there is no regular work for the villagers apart from these bits of land?—No, except for a small number; there are roadmen.

621. Then you admit they must go elsewhere for their work, for the labour which pays the rent?—I did not say that.

622. How do they find it?—I did not answer that question; but that a large number are people of small assured means of their own, I am credibly informed; a number of them are people

Dr. *MacGregor*—continued.

people who have saved money in other businesses and trades, and who have small assured means and come there for the pleasant place, good climate, cheap land, cheap houses, and the security of tenure of these houses.

623. Let us take another phase of it. Say that the annual income of this hundred years' lease has been about a thousand a year?—No, it is not.

624. How much?—£875 *5s. 6d.*

625. Is that the average for the hundred years per annum?—That is the present average, that is the present yearly rent; it has never been higher.

626. Could you give us the average of that village?—Multiply by 57, and I think you will find it.

627. That will amount to a large sum, will not it, something between 80,000*l.* or 90,000*l.*, will not it?—Possibly.

628. The amount of land is how many acres?—Fifteen hundred and something.

629. That is including out-run for cows as well as the fields of the estate?—Certainly.

630. As a practical agriculturist, what is your opinion as to that price as a fair value of that land in that time. Do not you think that that land has been more than ten times paid for in that period?—More than "ten times paid for"? I do not quite understand that, Sir.

631. Do not you?—I will put it in another form. A certain amount of land is in the hands of those that you call villagers, and if the lease or the annual rental, as the case may be, that they have paid amounts to 80,000*l.* or 90,000*l.* for that period, do not you think the landlord has been more than ten times paid the value of that land?—No, I do not indeed. I think he has had the annual interest for his money, the annual return for his capital, that is all.

632. On what?—On land; that land has had a capital value.

633. Can you state what the capital value of this particular area is?—No; I am not prepared to say that, but I am prepared to say this much, that if that land was let in other ways to larger farmers, the rent would be larger.

634. Quite so; is not that because the crofters have made the land to yield full crops, and without compensation?—No; I have said before that I think it has been always good land; but I freely admit that the villagers have treated it very well.

635. Quite so; they have increased the value of it?—Evidently. I do not say it has been due solely to the village work; I say it has been due to the natural course of years, through which that land has improved in value during a hundred years.

636. But you say it has depreciated in value in the last few years?—It is quite true; in the last few years all land has depreciated.

637. Then you are asking these villagers to renew these tenancies for 35 years, as I understand?—No, we are not asking them to do so.

638. You are offering it to them?—That is another thing.

Dr. *MacGregor*—continued.

639. You are offering it to them at the old rent, is it?—At the old rent.

640. What are the conditions?—The terms, I think, vary from 3*s.* to 3*s.* 6*d.* and 4*s.* 3*d.* a-year for the house and stent.

641. The houses, I understand, they built themselves, did not they?—Yes.

642. Now they revert to the Duke of Buccleuch without any compensation?—They would do by law, as would, I fancy, large portions of London and every town in Britain.

643. In order to retain those houses the Duke of Buccleuch, or the landlord, I will say, asks three or four years; which is it?—Three years.

644. Three years' rent as redemption money?—Yes.

645. On what ground does he ask that redemption money of the people who built the houses, without any expenditure on his part?—On the ground of law and right, Sir, and common sense. By the law of the land, the whole property upon that land becomes the property of the owner; every building upon that land is his; that is the law of the land. It is, moreover, justice. It pervades every country, it prevails in every part of Britain.

646. Do you mean to say then that what is law is always justice?—Usually it is so, Sir, and I imagine you are here to make it justice.

647. But you talk a good deal about common sense?—Yes, Sir.

648. Do I understand from you that you consider that what is law is equivalent to what is just?—It should be.

649. It should be, I agree, but I ask you, is it?—Mostly.

650. Does it follow here, because it is law, that these people who built their own house and keep it in habitable repair for that long period of years, must now not only continue to pay the same rent as before, but pay a three years' annual rental for the redemption of that?—The ancestors of those people——

651. Never mind their "ancestors," stick to the people in the house now?—They took the land upon those terms, and why should not they keep the terms. They have known the terms; every generation has known them from that time to this.

652. This is opening the negociation afresh with regard to the land and the houses upon it. This is a fresh negociation between landlord and tenant; and what I want to know is: how does the landlord expect these people to pay him three years' rent to be allowed to continue 35 years to pay the same rent as before, on their own labour and cultivation? How do you justify that?—Every villager knew that on the expiry of his long lease, the whole of the buildings and property reverted to the estate.

653. I am quite aware of that: that is the case I admit; and I admit that the landlord has the law on his side?—Where is the injustice of that?

654. You do not see it?—No, Sir, I do not indeed.

655. Well, probably, you are hopeless in that respect?—Quite.

656. May I just refer to your letter to Mr. Wilkinson?

Dr. *MacGregor*—continued.

Wilkinson? I think you state in that letter that "the circumstances of New Castleton are singular, and I know of no other place like it. About 100 years ago it was laid out for a hand-loom weaving village, and building lots were let for 99 years?"—Yes.

657. That I understand. Has there been much weaving there?—Not now. Hand-loom weaving throughout Scotland has vanished away from the advent of the power-loom.

658. Can they make a living as weavers—that is my question?—I do not think there is more than one in existence there. I think so. I will ask the question from a local friend here, if you like.

659. Has he a croft?—I really cannot tell you. What these pieces of land were given for was to give these weavers the facilities of keeping a cow.

660. According to your letter, "the whole area let on building lease was 40 acres"?—I think I have said the same to-day.

661. This is your own letter?—No doubt.

662. This is an official report of it?—Yes; 40 acres.

663. Forty acres; and that the total ground-rent was 52*l.*?—£52 5*s.* 6*d.*

664. £52 5*s.* 6*d.*; I give round figures. "No change has, I believe, been made in the rents of the fields held in regular succession from original tenants; though when land has changed into new hands there has been at times a revision, *i.e.*, increase of rent"?—Certainly.

665. Why?—Why! Because the landlord naturally took the benefit of his lands from new tenants. Why should not he?

666. What did he do to increase the value of that land or the rents? If a man has made his croft or his bit of land to reach a certain value by his own labour, and he goes out of that land, and it passes into new hands, what right has the landlord to expect a higher rent upon the labour of the previous man, without any compensation to him? Do I understand that the man who left those crofts got no compensation?—Certainly not.

667. Why not?—Because they were not entitled to any. They were yearly holders, and when they broke the estate rules, and when the land was taken from them for that reason, no compensation was due to them.

668. Do I understand, then, that there was no change of tenant there except when they broke the estate rules?—None.

669. Therefore it was "eviction," I will call it?—No.

670. What does it amount to?—Change of tenancy.

671. Because they broke the estate rules?—Yes.

672. Is not that eviction?—No.

673. Why were they changed?—Because they broke the rules; they were non-residents and broke the rules; the owner wanted villagers, not people living in London or Manchester.

674. Were they deprived of this land because they broke the rules?—Yes.

675. Deprived of the land?—Yes.

676. And made to leave the land?—And made to leave the land; they did not live on the land, they were not near it.

677. They were obliged to give up possession because they broke the estate rules?—Yes.

678. Is not that equivalent to eviction?—No.

679. We need not enter into legal technicalities; I am speaking now as a man to a man, not as a lawyer who tries to quibble with his brother lawyer on technicalities?—I am not a lawyer, Sir.

680. But we have lawyers in the room. I ask you whether a man who has increased the value of his holding, because he breaks the estate rules for some reason or another, is deprived of that land? I understand you to say that he is?—Yes.

681. He is obliged to give up possession entirely?—Yes.

682. Without any compensation for improvement?—Yes.

683. And, founded upon that improvement, the landlord exacts a higher rent from his successor?—No, I do not admit that it was founded upon "improvement."

684. What do you mean, Sir, then?—I mean that the land now is worth that, and will fetch it.

685. Who made it worth more?—I do not admit that the tenant did.

686. I ask you how did the land increase in value?—By the natural increase in the value of land over many years past. I say if the hand of man had left those fields alone, they would, by the hand of nature, have become of more value than they were a hundred years ago.

687. Do you?—Yes, I maintain that.

688. I think you told me a little time ago that the natural land on the Roan Farm only pays something like an eighth part of the rent that this land of the crofters is made to pay?—No; I do not admit that.

689. And that is so you say when left in a state of nature from time immemorial. How then do you reconcile these two statements?—There is no analogy between the one and the other, not in the slightest degree. No man acquainted with country matters would argue it seriously.

690. Would you be surprised to know that I am nothing else than a country man?—I know you, Sir.

691. That I was brought up on a croft?—Possibly.

692. That I know a great deal more of the country than I know of the town, and that I consider myself a practical man, and a man who knows a great deal of the people and of all classes of society, not only in this country, but in every part of the world; would you be surprised to hear that?—No, not at all.

693. Therefore, you cannot accuse me of asking questions from a non-practical point of view?—If I might be allowed to make an "accusation" I should say you were.

694. Are these houses in the village now in good condition; the houses that you want the people to pay three times the rent for?—Many of them are in excellent condition; some of them

Dr. *MacGregor*—continued.

them are in a moderate condition, and some very fair.

695. "Some very fair"?—Yes, in proper condition.

696. In fact, they are a hundred years old, and they were built with cobbles from the river?—I cannot say as to what they were built of, but they have a fair appearance. They are dry, they are comfortable, they are healthy, and that they are healthy is proved by the statistics of the village; it is one of the healthiest places in Scotland.

697. The place is a healthy one we know, and in the fresh air the people can live; but many of the houses are in a tumbledown state, are they not?—No; they are not in a tumbledown state.

698. In what may be called a ricketty condition?—No; I would not say that.

699. What did you mean, then, when you spoke in this letter to Mr. Wilkinson of "the principal reason" for your being able to notice several houses in the village in a bad condition?—A house may be in a bad condition, and yet not ricketty.

700. What do you mean by "bad condition"?—A house in a bad condition is a house in which the roof timbers are getting uneven, and the roof slates a little loose here and there, a sort of appearance showing that the house would require repair. Mr. Wilkinson in his letter to me asked how it was that in driving through the village he noticed some houses in a state of disrepair. That is my answer to it. I might have answered, if I had taken the trouble to write a much longer letter, that several buildings he would see on the village front in a dilapidated condition as to roof were not dwelling-houses at all.

701. Still you admit some of them are in bad condition?—Some of them are in bad condition.

702. And need repair?—And need repair; oh, yes.

703. Who do you expect to repair them, suppose they are taken over again, and three years' rent paid by these people?—It is their own property; they may make palaces of them if they please, they may build what they like.

704. Yet for these houses in a bad state of repair, you expect to find people not only to continue paying the same rent, but to pay the three years' rent in addition as redemption money?—Certainly.

705. You think that reasonable?—I think it most reasonable.

706. "When the new tenure of house property has been a few years in work I shall expect to see the appearance of the village much improved"?—Yes.

707. How do you?—How?

708. In what respect do you expect to see it much improved?—Because, before the terms of the improved tenure were made known there was naturally a hesitation in the minds of a number as to what would be done with them. They knew that by law the houses became the property of the Duke; they knew the Duke would be liberal, but they did not know to what extent, and they

Dr. *MacGregor*—continued.

waited for a few years—two or three years—but not all of them; pardon me, I must reiterate what I said in my statement. "The Free Church Manse, just completed in Douglas Square, on a lease that will expire in 1898, appears to have cost at least 600*l.* Another in the same square, on a site expiring in 1896, has just been built at perhaps a cost of 300*l.*, and it is valued at 52*l.* Before the new terms of tenure and offer of perpetual feus were made known, the owner of the last-named house pulled down a two-story house valued at 10*l.*, in complete confidence that he would be justly dealt with."

709. And you think the terms are just?—I think they are just, more than just; they are liberal.

710. You say: "The place as it now exists could not have been designed. It has just grown by force of circumstances above alluded to, aided by the national characteristics of the border people"?—Yes.

711. "Thrift"?—Yes.

712. "Perseverance"?—Yes.

713. "Hard heads and good constitutions"?—Yes.

714. And you add that it is a particularly healthy locality?—Yes.

715. On account of all those good natural conditions, the people have been able to keep body and soul together, and pay their rent to the Duke of Buccleuch; but instead of being allowed to continue this happy state of things, I ask you why the Duke, the landlord, or his factor, thinks it just to raise the rent by adding a tax of three years' rental on the people now?—It has been said more than once that the whole property of the house reverted to the Duke on the expiry of the lease. If instead of taking the whole, the Duke takes a fraction only, I think he can scarcely be called harsh or unjust.

716. Will you answer my question in another form then?—No, I think I have answered the question.

717. What I want to know is this: If the Duke is such a good landlord that the people have every confidence in his justice and righteousness, and that the factor is equally just and righteous, and that the people in consequence of all these natural thrifty, persevering, and constitutional characteristics of theirs have by dint of labour from other places—not found there—been able to pay the Duke rent for a hundred years, why does the landlord and the factor now consider it just and expedient to increase the rents of these people while land in the immediate neighbourhood in the hands of other farmers, by your own admission, has very much depreciated within the last few years?—I still do not gather the pith of the question, Sir.

Mr. *Donald Crawford.*

718. Am I right in understanding that according to the later offer of the Duke, if the leases were not extended to 35 years, in that case the tenant would not be called upon to pay three times the value?—Oh, no.

719. I think there was some misunderstanding between you and Dr. MacGregor upon that point?—No;

Mr. *Donald Crawford*—continued.

—No; he would simply pay the ground-rent he pays now, varying from 3*s.* to 4*s.* 3*d.* a year.

720. And in that case the rent of his fields would remain unaltered during that period?—Quite so.

721. The only additional payment would be 2*l.* 10*s.*, I think you said?—Oh no, Sir, that is a mistake. The 2*l.* 10*s.* would be the cost of the feu charter if they took out a feu. If they liked it better for 35 years, it would not cost a cotter one penny piece; the entry in the estate books forms the lease.

Dr. *MacGregor.*

722. There is one question I omitted with regard to sub-letting. In the evidence to-day as regards sub-letting, you spoke of Mr. Hall having been deprived of his land for political reasons?—On the contrary, I said he had not been deprived of his land for political reasons.

723. It was charged against you that he was?—It was.

724. What was he deprived of his land for?—For sub-letting; being non-resident, and sub-letting it for more than the estate rents.

725. To which you object?—Certainly.

726. You speak of "too many" there being hostile to you politically. What do you mean by that? I use your own words: you said they were hostile; did you mean too many of the villagers?—I speak now as a gentleman of partisan views. I am sorry there are so many hostile to me and my friends; that is what I mean.

The *Solicitor General for Scotland.*

727. What was the date of the offer, the last offer?—The last offer was in March. I put the circular in, it was in March.

728. Of this year?—Yes.

729. I think the letter you have been good enough to refer us to, does speak, if we may take it generally from your evidence, of the community as an industrious community?—Yes.

730. A well-doing, industrious community?—A well-doing, industrious community.

731. I so understood your evidence?—Yes.

732. The only point I wish to ask you is this: Do you consider it in any respect an advantage to the surrounding farms to have a community of that kind which may, as occasion require, furnish agriculture labour; or have you any view about it?—Yes, I admit that it is so. The young men go out as shepherds, and the young women go out as byre women; it is an advantage naturally to have a community like that near.

The *Solicitor General for Scotland*—continued.

Sir *John Kinloch.*

733. Was this offer, which was made by the Duke, and which you consider a very favourable offer to the people, made before or after the agitation?—Do you mean before or after the so-called fishing inquiry I mentioned?

734. Yes, the general agitation in the village?—After. That took place in December, and this circular offering the 35 years' renewal was given out, I think, in March. I find I have the printed circular here, but it is not dated.

735. Do you think the favourableness of the offer was influenced at all by the agitation in the village?—No, Sir.

736. You think not?—I do; I think I said—if I did not I meant to have said—in my statement that it was expected up to the last, when all the offer of feus were given in, that were likely to come, there would be a small residuum of poor people who would be obliged to come to us and say: We cannot very well find this redemption money, or pay the expenses. I was quite prepared for a certain number, and therefore this offer was made by the Duke, that I say: "Very well, if you cannot pay the redemption money, you shall take on again for 35 years if you like"; but we were disappointed to find the number was so large, and that the people who were able to pay, had *recalled* and took the 35 years in preference.

Dr. *MacGregor.*

737. Why is the new charter reduced in cost to the people from 8*l.*?—It never was 8*l.* I do not know where they get that 8*l.* The Duke's law agent is here, and he will be able to tell you more about that.

738. On the new charter what is payable now?—Not more than 2*l.* 10*s.*

739. In addition to their annual rent?—That is law costs, writing out the papers.

740. And people are expected to pay that?—The people will pay 2*l.* 10*s.*, and the Duke will have to pay the difference. The law charter cannot be drawn up for 2*l.* 10*s*, and the people are not asked to pay the difference.

[The Witness withdrew.

Mr. WILLIAM BIRKMYRE (a Member of the House), Examined.

Chairman.

741. THERE is something, I understand, you wish to say in regard to Inverary, one of the burghs you represent?—Yes.

742. Would you just be good enough to say what?—Yes. Inverary is one of the Western group of burghs I represent in Parliament. The town is thoroughly stationary; I have never seen a new building in the course of erection in the place. The population in 1871 was 902; in 1881, 864; and in 1891, 723; and that is contrasted with Oban, another of the Western group of burghs, the population of which in 1871

Chairman—continued.

was 2,413; in 1881, 3,991; and in 1891, 4,377. In Oban the land is held by proprietors who grant feus, which, combined with railway and steamboat facilities, explains the great progress of the place; whilst at Inverary, with the exception of one or two houses, the entire town belongs to the Duke of Argyll. The land pertaining to and adjacent to the burgh is entirely in the possession of the Duke, so that practically the town and population of Inverary is in the grip of one man. Although I cannot speak from personal knowledge, yet I am told from what I believe

Chairman—continued.

believe to be good authority that his Grace declines to grant feus, and that thus the inhabitants are compelled to live in a class of houses in which they would not, were feus granted and building allowed. The merchants complain especially that, in consequence of this, their trade is a dwindling one, and that were feus granted the town would undoubtedly extend so as to induce railway and increased steamboat facilities; in fact the town never gets a chance in competition with other watering places in the West of Scotland. What my constituents are most anxious for is cheap and expeditious compulsory powers, whereby not only the Duke of Argyll, but all lords of the manor who have property adjacent to burghs, should be compelled to grant feus and leases of land at fair rates.

Dr. *MacGregor.*

743. You told us that Oban, compared with Inverary, was flourishing, because of its railway and steamboat facilities?—Yes.

744. But you have steamships at Inverary?—We have steamboat facilities at Inverary once a day during summer.

745. But apart from that, the Duke of Argyll declines to feu any of his land?—I have never asked the Duke, but I have been advised by those who are likely to know.

746. Namely, your constituents in Inverary?—Yes.

747. I take it, therefore, that to the Inverary people the grant of feus is refused?—So I have been told.

748. Is that refused, at any rent, however fair?—I cannot go into details.

749. You have every reason to believe the people are willing to give a fair rent?—I believe so; they wish to get feus.

750. And because of this declinature on his part, the trade of the place is a dwindling trade?—Yes.

751. Do I understand you to say, as a Member of Parliament, that you would advocate compulsory powers being given to the people in any parish or district to acquire the necessary land?—Yes.

752. That is your opinion as representing the people of Inverary?—That is the desire expressed as represented by a public body.

753. But you have every reason to believe that the people are willing to give a fair rent for that land?—Yes.

754. Have you anything else to suggest in connection with this Committee as to how that might be brought about; would you suggest Parliamentary powers being taken without delay?—Oh, certainly, that is what my people are very anxious about; that Parliament should devise some means whereby they could develop the town naturally.

Mr. *Renshaw.*

755. Could you tell us what the tenure is in Inverary now?—I believe it is yearly tenure. The houses are held, I believe, from year to year from his Grace the Duke. I cannot say

Mr. *Renshaw*—continued.

positively as to that detail, but I know that the people are tenants of his Grace the Duke.

756. You cannot speak with accuracy, then, as to what the absolute conditions are?—No; whether they are two-year or three-year leases I do not know. I am inclined to think they are simply yearly leases.

757. Inverary occupies, I suppose, a very different position relatively to the town of Oban. Inverary is a town which is in close proximity to the Duke's own residence?—Yes, quite so.

758. And to a large extent has been occupied by persons connected with the Duke's estate; is not that the case?—There are a few summer visitors.

759. Who simply come down there because it is an attractive neighbourhood, because of the Duke's castle being there, and the grounds being there?—As you say, the neighbourhood is very attractive, and the inhabitants are most anxious to have an increased number of summer visitors, which they would have were their houses built suitable to the neighbourhood.

760. When you speak of the trade of the place, I suppose there is no actual commerce carried on there; you simply mean the local tradespeople?—They call themselves merchants; there are shopkeepers, tailors, blacksmiths, and the usual trading facilities that are found in all such villages of the same size.

761. It is a market town, I believe, Inverary?—I believe so.

762. And I presume the Duke's tenants come in from various parts of the property, and purchase what they require there, do not they?—Yes.

763. So that it is practically a town which has been established under the Duke's system of estate management for the purposes and the convenience of the estate to a large extent?—Well, partly. There is a good deal of tourist traffic in summer—not a great deal, but the inhabitants would like more of it; and the inhabitants are anxious of course to have more of a diversified trade in it rather than to be dependent entirely upon the Duke and his followers, that is their ambition.

764. You spoke of the desirability of compulsory powers being given to the people, by which they could insist upon acquiring land under certain conditions in such positions as Inverary?—Yes, I would like very well to see that, and the people would like it very much.

765. Would you propose to limit that to any particular localities, or make it of general application?—I would make it of general application.

766. Does it not occur to you that if power of that kind was placed in the hands of the people, it might have the result in the neighbourhood of such an establishment as that of the Duke of Argyll at Inverary, of preventing the erection of buildings which might be occupied by people who, having these compulsory powers would be able perhaps to use them to the prejudice of the locality and injure the amenity of the neighbourhood?—I do not think so; there is that risk in every feu granted. If facilities were given for feuing at Inverary, I think the town

Mr. *Renshaw*—continued.

would increase very very largely, and it would be a public benefit not only to Inverary, but to the people of the West of Scotland.

767. Do not you apprehend, however, that there might be very serious difficulties sometimes in developing a neighbourhood, if people who are the land owners, and who are principally interested at the outset in the development of any particular neighbourhood, were to have in their minds, and before them, the fact that when the people once came there they might have compulsory powers which might be put in force to the prejudice of the local proprietor?—Oh, it is quite possible. The local proprietor might be prejudiced much in the same way as the 700 odd people of the population are prejudiced in the other way—I quite agree to that.

768. The effect might be to prevent the development of land which otherwise—under the existing system—would very probably be developed at the expense of the estate, might it not?—I do not see how it could be developed to the prejudice of the estate, because, as far as I understand, in granting feus there is a great deal of additional price got for feus, a price which would not be got if it were let as agricultural land, and I think in that respect it would improve very much the estate.

769. That, of course, is solely a question of estate management, economical or uneconomical?—You spoke a few minutes ago about prejudice to the estate; I take the other view, that it would benefit the estate.

770. Placing yourself in the position of the proprietor of such a property, you can conceive, can you not, that under any such circumstances, with a large house which you wished to use for certain purposes, to have a very considerable town compulsorily set up would be a prejudice?—It depends altogether upon the circumstances. If he was an Inverary man I should say it would improve his property.

771. Still it would be a matter of opinion, would it not?—If he was inclined to be unsocial and did not wish to see a human being within a few miles of him, in that respect it would certainly prejudice his view of enjoyment.

772. Are you aware whether any approach has been made to the Duke with regard to the question of feuing?—I believe he refuses to feu under any circumstances.

773. But you cannot speak to that from your own knowledge?—From my own knowledge I cannot say, because I have never asked the Duke, and I have never put myself in communication with the estate agent upon the subject.

Sir *Charles Pearson*.

774. You mentioned that you thought compulsory powers ought to be conferred upon local authorities to take lands from lords of the manor?—Yes.

775. Do you find that lords of the manor—if there are such things in Scotland——?—If you object to the name "lords of the manor," I will say the superior.

776. Oh, you mean the superiors?—Yes.

777. Would not your argument apply to all owners of property which lay handy for the extension of any community?—Yes; I would so apply it.

Sir *Charles Pearson*—continued.

The *Solicitor General for Scotland*.

778. Surrounding farmers, you mean?—Surrounding farmers.

Sir *Charles Pearson*.

779. Do you quote Inverary as a case which shows the urgency or the necessity of such compulsory powers?—Yes.

780. In your view does the grant of such powers (I mean as regards any particular locality) depend upon the relations between the superior and the community, with reference to the willingness of the one to give land, and the other to give terms?—Yes, largely; it would be a modification. I say when a superior is acting upon a sort of dog-in-the-manger policy—"I will neither give the one thing nor the other"—there is more necessity for compulsory legislation than when he is disposed to meet the inhabitants and give them terms.

781. It would be material also to know what is the existing tenure on which the community holds such land as it has got, as well as the tenure on which the new land is offered to it, would it not?—So far as I understand, at Inverary the community hold no land whatever.

782. I mean the individuals composing it, the inhabitants?—They do not let at present at Inverary.

783. Is it not important in such a case to know the tenure upon which the individuals composing the community hold the land they already have?—In Inverary they do not hold land. I think there are two or three houses on lease. The houses at Inverary belong to the Duke. The hotel belongs to the Duke; and I believe the furniture in the hotel belongs to the Duke.

784. What is the community?—The Inverary community.

785. They hold their land, you say, on yearly tenancy?—Yes.

786. But you are not sure of it?—I am not absolutely sure whether it is one, or two, or three years.

787. Do you know the annual rental?—No, I cannot tell you that.

788. Do not you think the Committee, if Inverary is to be cited as an instance, is entitled to much more definite information? Do the community of Inverary propose to tender any further evidence upon this point to this Committee?—Well, I will tell you what prevents: they are afraid to come here to tender evidence.

789. I ask you the question: Do you know whether the community of Inverary propose to tender any further evidence than what we have here to-day?—I know they are anxious to do it, but they are afraid.

790. Then I may take it that your answer is in the negative, with an explanation that no more evidence is to be tendered as to Inverary?—So far as I know.

Mr. WILLIAM HALL, again called in; and further Examined.

Chairman.

791. I BELIEVE you desire to make a correction of your evidence?—Yes. I stated that it was in 1878 or 1879 that the Duke took the land or houses from tenants whose politics were known to be different from the politics of his Grace. That date was not "1878"; it was 1868; and it was not in Captain Yorstoun's time at all; it was in the time of the late Mr. Connell when

Chairman—continued.

that took place. I wish also to state that he stated that it was in consequence of non-residence; I would like to know how it was that in the case of my kinsman, George Hall, who lived in the Middle Square, and lived and died there, the land was taken from him. That is the explanation I wish to offer of my former evidence.

Mr. ROBERT STRATHERN, called in; and Examined.

Chairman.

792. YOU are a Writer to the *Signet*, and you have acted as law agent for the Duke of Buccleuch; for how long have you so acted?—I have been connected with his Grace's business for about 30 years. I have been sole agent since 1877, but previous to that I was conjoined with the Duke's late agent.

793. I believe there is some information you desire to lay before the Committee with regard to Newcastleton?—Yes, in reference to the tenure of the village. In 1793, when the village of Newcastleton was established, the Buccleuch Estates were held under settlement of strict entail. At this time, however, the Act of 10 George III. c. 51, commonly called the Montgomery Act, was in force, it having been passed in 1770. By that Act entail proprietors were empowered to grant leases (1) for 14 years and one existing life; or (2) for two lives and the life of the survivor; or (3) for 31 years; and, by Section 4, they were also empowered to grant long leases of lands for the purpose of building—*i.e.*, leases for any number of years not exceeding 99 years, subject to the proviso, however, that not more than 5 acres should be granted to any one person, and that a dwelling-house not under the value of 10*l.* sterling should be built on each half acre of the ground comprehended in the lease, that the houses should be kept in good tenantable and sufficient repair, and that the lease should be void on the failure to keep the due number of dwelling-houses of said value in such repair. It was in exercise, therefore, of this power that Duke Henry settled the Village of Newcastleton, but for some reason or another no formal leases were granted, the constitution of the agreement for lease being simply an entry in his Grace's rental books. In reference to the agricultural land which was given on yearly tenure to the builders of the houses in the village, under the leases, his Grace had no power to give it on any such tenure, as he had in reference to the building sites. He did not, therefore, because he could not, give the land along with the building sites. He might have given 31 years' leases, but, so far as I am aware, this land, though originally for 14 years, is now held on yearly tenure. The ground-rents for the building sites were, so far as my information goes, practically about agricultural value. The ground-rent or feu duty, for ground in Scotland, even for 99 years' leases, has always been very largely in excess of the agricultural rent, feuing being practically a

Chairman—continued.

sale of the subject under burden of a perpetual ground-rent. The advantage that the entail proprietor had in granting these building leases was that while he gave off the land at this small rent the buildings fell in to him at the end of the 99 years. It was, and is, a perfectly well understood bargain. The desire for feuing at Newcastleton came from the villagers. It was not a proposal of his Grace's, who would probably have preferred to renew a leasehold tenure, and the feuing scheme was prepared on the footing of its being a large advantage to the villagers to have perpetual feus instead of leases. It was in this light that it was thought that if the villagers were to create expense by seeking for and obtaining feus, that expense should be borne by them and not by his Grace, who was prepared to renew a leasehold tenure without any expense whatever either to them or to himself. Accordingly it was stipulated in the conditions that the feuars should pay the whole expenses. In view of this condition the feuars asked, I believe, what the expense of a charter would be, and as it would fall upon me as agent of his Grace to prepare these charters, the question was one of my professional remuneration rather than one in which his Grace was pecuniarily interested. The fees payable to solicitors for their professional services are in Scotland fixed by a scale laid down by the Supreme Court. This scale regulates every possible charge they are entitled to make, and in addition lays down what are called the professional rules as to the incidence of all charges. By this scale and rules the expense of the preparation of feu charters is fixed, and is declared to be payable in equal shares by the superior and vassal, but in addition to the expense of preparing the charter, the vassal has to complete his own title at his own expense; that is, he has to register it in the appropriate register, and pay the registration fees. The professional rules as to the preparing of deeds may, however, be altered and modified by the contracting parties, and they frequently are so. In particular, it is not unusual to lay upon the feuar the whole expense of the charter, instead of only one-half. When I was asked for an estimate of the cost of a feu charter, I intimated that, strictly speaking, and assuming that the feuar did not employ a separate agent of his own to revise the writ, the cost of each charter, including outlays, but excluding the cost of registration, would amount on the average,

Chairman—continued.

and according to the table of fees, to 7*l.* 0*s.* 6*d.*, and the expense of recording, which in every case, of course, is paid by the feuar, to 2*l.* 5*s.* 6*d.* While intimating this, I, however, added that I was desirous of keeping down the expense to the feuars, and proposed to modify the fees of each charter to a round sum of 4*l.* 10*s.*, instead of 7*l.* 0*s.* 6*d.*, and in addition to register the title and deliver it free to the feuar for 1*l.* 18*s.* additional, or in all, 6*l.* 8*s.* This includes 2*l.* 2*s.* 6*d.* for Government stamp duty and registration fees. Later, however, when I learned that there was to be a large number of feu charters, and that it might be possible to have them printed, I agreed to prepare the charters for 50*s.* each.

The *Solicitor General for Scotland.*

794. Is there any disability now?—No; the estates are now held in fee simple.

795. There is no disability in fee in granting leases?—No; they are fee simple estates.

Dr. *MacGregor.*

796. I understand you to say that you have been law agent since 1877?—Sole law agent since 1877.

797. Then I think you have stated that half an acre of land had been given with each house originally; I think I heard in the evidence here that it was about the eighth of an acre?—No; I did not say anything of the sort. I said what the Statute said.

798. There was power to give, but it was not given?—No; I was quoting the Statute.

799. They did not get the half acre?—No; the full power was not exercised.

800. I think you stated that the Duke was quite ready to renew the feus or leases on the old terms?—I stated that I believed so. I had no instructions to that effect, but I believed so.

801. Do I understand that the increase asked for is simply for the discharge of legal expense?—Increase of what?

802. I understand that in order to remain in their own houses, as I call them, houses built by themselves, they are asked to pay these rents?—For the feu, if they get a feu.

803. Why, if the Duke was willing to leave them in on the old terms, does he increase that?—Because they get a feu. A feu is practically a sale; we look at it in that way.

804. Never mind what you call it legally?—I do not put it "legally," I mean popularly.

805. It is an extra outlay which the people have to incur?—Taking a feu?

806. No; that amount would be an extra expenditure on behalf of people compared with continuing as they were before?—Quite so. Certainly.

807. That is my point?—I beg your pardon, I did not understand it.

808. Added to that there is 2*l.* 10*s.* for legal expenses?—£. 2 10*s.* for the preparation of the charter.

809. That is an increased expenditure to the people?—Certainly, to get the feu.

810. Therefore the renewed tenure is not as regards the people on the old terms?—There is no renewal of tenure in granting a feu, because there never was a feu.

Dr. *MacGregor*—continued.

811. May I ask you one question as regards rent. Seeing that Captain Yorstoun, the factor, admitted that the value of land in that neighbourhood is very much reduced, why is it that the Duke, if he is willing to be so fair to the people, exacts the same rental from the people as heretofore?—I did not understand Mr. Yorstoun to say that the land had altered in value in the way indicated by you.

812. I think he admitted that the rental of the farms in the immediate neighbourhood was very much reduced?—Taking the farms as a whole?

813. Yes?—Yes; that is true, I believe.

814. Why, then, does the landlord expect these poor people to pay the same rent as before without any reduction, notwithstanding the depreciation in the value of the land?—Because to compare a farm with land of this peculiar quality and situation is scarcely fair. I may be wrong.

815. I see what you mean; I appreciate the remark; but surely on the Roan Farm (a farm of 4,000 acres) there must be land quite as good, if not better?—Yes; but if you take the average, as I heard you do, in cross-examining Mr. Yorstoun, you are comparing two things that are unlike, and seeking to found upon that. You bring in the worst land of Roan and compare it, in taking your average, with this land, which is equal to the best land of Roan, which, I think, without being offensive, is not fair.

816. I think that on a former occasion witnesses showed very clearly that the land cultivated by these people is exactly the same kind of land as obtains in the neighbouring farms?—As the best land of the original farms, not as a whole, not on the average.

817. I admit there may be a variety of land on a large farm of 4,000 acres, and all that; but, taking it all over the land, is not the land reclaimed by them there from the same hillside, practically the same land as that farm?—No, not as that farm on the whole.

818. Not on the whole?—No, not on the whole. That is the best of it, and, if you will pardon the observation, I think it was a fallacy to compare the two together *en bloc* as you took them.

819. Do you think, then, putting it in another way, that the average rental of 16*s.* paid by these people is a fair rent considering the value of the land?—I am not a land valuator.

Chairman.

820. I understood you to represent yourself as a law agent?—A law agent merely. I would be very glad to go into it, but I would be very sorry to put my mind against Dr. MacGregor in the matter of land values.

Mr. *Donald Crawford.*

821. There is just one matter which I want to clear up. I understood you to say that the proposal to change the tenure into feu in your opinion emanated from the tenants?—I think so distinctly. I think you may take that.

822. And

Mr. *Donald Crawford*—continued.

822. And that the Duke would have been prepared to renew the old tenure?—I do not know whether he would have been willing to renew it for the same length of term, but, at all events, he would have been willing to renew the leasehold tenure.

823. To renew a leasehold tenure?—A leasehold tenure, without cost to them.

824. I suppose it is not, at all events, ascertained that you would have been prepared to give them another 99 years' lease?—I do not think it was ever asked to give another 99 years' lease. I do not know what his Grace's views upon the subject may be.

825. But it was only after the feu had been proposed and partially accepted that his Grace made the further alteration?—Certainly, to meet the cases of which his Grace was told. He was told probably some of the people in the village were a class of people who by reason of their poverty could not take advantage of the feuing scheme, and to meet these cases the alteration was made; it was not made as a general scheme; and if I might be pardoned the observation, I think it was a mistake, until it was seen how far the feuing scheme was going to be taken advantage of, to promulgate that.

826. To promulgate what?—The 35 years' scheme. I offer that as a personal observation of my own, without authority.

827. I know you do not mean to say so; but it would not be quite correct to say that his Grace was prepared at the beginning to renew the old tenure?—To renew the kind of tenure, I should have put it.

828. It was only ultimately that he offered a 35 years' lease?—From the very outset his Grace had in view that there must be a renewal of the tenure there of some kind. There was no intention to dispossess the tenants, none whatever; it merely a question of lease-holding, and if leasehold, what length the lease should be.

Mr. THOMAS HUNTER, called in; and Examined.

Chairman.

829. YOU are Provost of Cumnock in Ayrshire, are you not?—Yes.

830. Will you give us just the population of the burgh, according to the latest census?—3,006.

831. And its area?—About 285 acres.

832. And the present annual rental?—£. 8,889.

833. Can you separate that into the annual rental of property held under 99 years' leases and property held under 999 years' leases?—Yes; the total annual rental of property held under 99 years' leases is 3,173*l.* 5*s.*, and of that held under 999 years' leases 115*l.* 9*s.*

834. And what is the amount of that held under feu (which of course would be feu duty)?—£. 4091 5*s.*

835. The total annual value of the property held under lease and feu being, what?—£. 7,379 19*s.* The remainder of the annual rental comprising lands, minerals and railways.

836. Comprising lands, minerals and railways, other than house property?—Yes.

837. Are the 99 years' leases very numerous?—Yes, fairly numerous.

838. Can you tell us how many of them there are, approximately?—I could not quite give an approximate number.

839. But they are numerous, as the rental would show?—Yes.

840. Are they generally large areas, or not?—Not large.

841. Would it be correct to describe them as building lots?—Building lots.

842. From what estate are the 99 years' leases held?—Off the Dumfries Estate.

843. Who is the present proprietor of that estate?—The Marquess of Bute. I may say his Lordship's ancestor, the Earl of Dumfries, was one of the first to take advantage of the Montgomery Act of 1770, to grant these leases.

844. The Act of which we have heard?—Yes.

Chairman—continued.

845. Do you mean to say that he began to let off these leases shortly after 1770?—Yes.

846. Can you tell us over what period the granting of leases extended?—From that time up to very lately; they have ceased almost now.

847. Have you any idea of what the current or prevalent rents are of those?—Yes; the annual lease rent ranges from 8*d.* up to 7*s.* 6*d.* per pole.

848. Could you convert that into the amount per acre?—Eightpence per pole means 5*l.* 6*s.* 8*d.* per acre; 7*s.* per pole means 60*l.* per acre.

849. Can you tell us whether the lower rate was the prevalent rate in the earlier period, and the other in the later period. I presume it was so?—Yes.

850. One would infer that from the great difference?—Yes.

851. Were there any conditions in those leased which you desire to inform the Committee of?—There are several; but there are only two that I would mention. The first is, that a house of a certain value must be erected on the land lease, and maintained in good repair; the whole to be surrendered at the expiry of the lease.

852. Is not that a Montgomery Act condition?—Yes.

853. It looks very like it?—Quite so.

854. What is the other?—Any leaseholder who may wish to sell his property, and arranges the price with a purchaser, must before completing the bargain give Lord Bute the offer of the property at the same price.

855. What is commonly called pre-emption in Scotland?—Yes. I may say Lord Bute has taken advantage of it in one case, to the surprise of both seller and buyer.

856. And in one only, so far as you know?—In only one case.

Chairman—continued.

857. Do you know anything of the circumstances of that case?—I believe he was requiring such a property, and took the benefit of the offer.

858. But except in that case, although the offer had to be made to him in terms of the lease, did his lordship allow the sale to go on as an open market sale?—Yes, that is his rule.

859. Have the leases been running out in recent years—the 99 years' leases?—Yes; during the last 12 years six leases have expired, and all the buildings erected on the ground, showing a total annual rental of 115*l.*, have been taken over by Lord Bute without compensation or the offer of a renewal upon any terms.

860. Could you tell us something about the question of the land let under those leases and how it was occupied?—I could not just exactly give you the extent of the land, but it was principally for dwelling-houses and shops.

861. Could you mention, for the information of the Committee, what the prevalent industry in Cumnock is?—Of course it is an agricultural and mineral district Then we have woollen manufactures and engineering manufactures.

862. What are the businesses that most of the holders of those long leases (99 years' leases) carried on?—The larger part of the property consists of dwelling-houses; but the engineering works and woollen manufactories are held on short leases except in one case.

863. What class of dwelling-houses are they as regards size or rental?—They will range from 4*l.* up to 30*l.*

864. Now as regards those six (I think you said) that have fallen in, of the old leases; are these all of the long leases which have fallen in down to now?—Up to this time.

865. What was the character of the buildings?—As a rule they are buildings with thatched roofs.

866. What would be the value of the houses?—Well, I should say 10*l.* to 20*l.* of rental.

867. Of rental?—Yes.

868. And what capital value?—Perhaps, four to ten years' purchase; they were in fair repair.

869. Four to ten years' purchase, you say?—Yes, I think so. I may say that there is one special case to which I wish to call your attention, of a different character.

870. Just mention it, whatever it is?—I will just read you a few particulars; "As a rule, the properties that have as yet fallen into Lord Bute's hands have thatch roofs, and in no case have they been rebuilt, but simply repaired. Whereas, had renewals been granted, buildings, in some cases at least, would have been erected of a much more valuable and substantial character. We cannot relate the special features of hardship that marked each case, and only give the particulars of one. This lease was granted in the year 1783. One of the conditions of this lease was that a house value 10*l.* was to be built and maintained on the ground." We reckoned that not the annual value, but the full worth of it, (that is the interpretation that is put upon the lease, value 10*l.*, not annual value). "When the lease expired, houses of stone and lime with slate roofs, and yielding an annual value of 34*l.* 10*s.*, had been preserved. Taking the

Chairman—continued.

moderate rate of 20 years' purchase this gave a property of 690*l.* instead of 10*l.*, as bargained for. The leaseholder applied for a renewal several years before expiry, offering to rebuild, and give an increased rent, but was refused. His request to become tenant was also refused. I should also mention that the lease of the adjoining property had been renewed 13 years before expiry at an increased yearly charge."

871. For what period?—Ninety-nine years. "The disappointment which this policy has brought about, and the feeling of bitterness which it has engendered in the minds of leaseholders, can be easily conceived, more especially when they remember that the policy of the Dumfries Estate during the lifetime of the late Marquess of Bute, and also during the minority of the present Marquess, had been to grant renewals." (That was the policy of the estate.) "The baneful effect was also clearly manifest upon our burgh as a whole. For some years the building trade has been at a standstill. Leasehold property has been greatly depreciated in value and scarcely saleable. The establishment and extension of manufacturing industries have been checked and enterprise of every kind very much restrained. As a residential centre our burgh has also suffered. Being in the midst of a district distinguished for its natural beauty and historic associations, and possessed of all the advantages of the Burgh Acts, such as a pure water supply, good sanitation, lighting, &c., it was rapidly becoming a favoured spot for the erection of villas and cottages. That, however, is now at an end. Within the next few years a large amount of property will pass from the hands of the present proprietors, with the inevitable result that no improvements are being effected upon them, and only the minimum of repairs being executed."

Sir *Charles Pearson.*

872. You say, "Will pass from the hands of the present proprietors"; to whom?—To Lord Bute.

Chairman.

873. Will fall in, you mean?—Yes; thus rendering many of the dwellings occupied mainly by the working classes deficient in many of the modern conveniences and comforts which they ought to possess. The prejudicial effect upon the town is also evident, if we examine the changes that have taken place in the annual valuation of the borough within the last 25 years. When we take the valuation of 1868, the time when renewals were granted, and compare it with the valuation of 1883, when it became fully known that no renewals would be given, we find an increase during that time of 2,750*l.*, or equal to about 50 per cent., the figures for each year being: 1868, 5,570*l.*; and 1883, 8,320*l.* But, comparing the year 1883 with the present time, the increase is found to be only 570*l.*, or barely 7 per cent. Five years ago the leaseholders and feuars presented a memorial to Lord Bute, by the hands of three of their number, and it was to the following effect:—"To the Most Noble the Marquis of Bute, Earl of Dumfries, and Baron Crichton, of Cumnock, &c., K.T., heir of entail,

Chairman—continued.

entail, in possession of the estate of Dumfries House, in the county of Ayr. The memorial of the undersigned leaseholders and representatives of leaseholders in the burgh of Cumnock respectfully sheweth,—That a considerable number of the properties in the burgh of Cumnock are held under your Lordship on leases for the space of 99 years, which contain *inter alia* a clause to the effect that the leasees shall be bound to remove from the properties at the termination of the leases. That several of these leases expired recently, and the leasees were required to remove and did remove from their holdings in terms of the clause above referred to, and the buildings and gardens taken possession of on behalf of your Lordship; that several more leases are about to terminate; that in consequence of these removals considerable hardship has been experienced by the leasees, some of them being old and infirm, and unable, without assistance, to pay house rent. That, further, the prosperity of the town has thereby been checked, and building almost entirely stopped, and, as a further consequence, the children of leaseholders lose interest in the old homes and their native place. Your memorialists, encouraged by the kindly interest taken in, and the great benefits already bestowed, in Cumnock, by your Lordship, humbly beg to suggest that your Lordship may be pleased to cause such steps to be taken as may be deemed expedient to enable your Lordship to waive your undoubted right to take over such leasehold properties at the expiration of the leases, and in place thereof to convert, for a fair and reasonable consideration the properties in Cumnock held on lease into feu holdings, a practice which your memorialists understand is adopted on several entailed estates in Scotland, or afford such other relief as your Lordship may think proper. May it therefore please your Lordship to cause inquiry into these statements, and, if found correct, to take the circumstances of your memorialists into your favourable consideration, and your memorialists will ever pray?" I would like to read his Lordship's reply: "Dumfries House, Cumnock, 14th Sept., 1889. Sir,—I have carefully considered the memorial by leaseholders and representatives of leaseholders in the burgh of Cumnock, on the question that their position may be changed to that of feudal vassals which you and the other members of the deputation appointed by them were good enough to submit to me on a recent date. I then took an opportunity of explaining my views generally to you; and having since taken the advice of my law agents I now write you in reply to the memorial. I think it probable that the deputation would gather from the remarks which I made to them on the occasion when we met, that I entertain a general dislike to the feudal system, and that I consider charters granted in accordance with that system should be confined to exceptional cases such as public buildings and the like. I have had occasion frequently and carefully to consider this question, and have arrived at the result which I now state as one which generally guides me in relation to the various estates which I happen to possess, whether held under an entail or in fee simple. In the present instance, as I think you must be aware, my powers are limited by the settlement of the estate of Dumfries made by my ancestor the Earl of Dumfries upwards of 100 years ago. According to the terms of that settlement, no powers are reserved to me or to the heir of entail in possession for the time being to grant feudal charters. Such powers are not uncommon in deeds of entail, but they do not exist in the entail of the Dumfries Estate. My powers, therefore, are strictly tied down to those which the Legislature have thought fit to provide by means of different Statutes. Having above indicated my views with regard to the feudal system, you will, no doubt, quite understand that I do not propose to avail myself of the powers granted to heirs of entail to grant feu charters under the authority either of the Supreme Court or of the Judge Ordinary. It appears to me to be my duty to act strictly in accordance with the powers which I have as an heir of entail under the deed of settlement of the estate, as enlarged by the Acts just mentioned, and of which prior heirs have taken advantage. The first Act which conferred powers upon heirs of entail to grant building leases not exceeding 99 years in duration was the Montgomery Act of 1770. I find that my ancestor, the Earl of Dumfries, who executed the entail settlement of the Dumfries Estate, very early took advantage of this Act with the view of improving the town of Cumnock, and in consequence the leases for 99 years, which have recently begun to fall in, are among the earliest in Scotland which have run to their natural termination. I am advised that whenever there is, as indeed there always ought to be, a house of a certain value existing upon the ground so leased, the terms of the Act are such that the house necessarily becomes part of the entailed estate. I think it right to state here that my father, the late Marquess of Bute, carried out the same course of action as the Earl of Dumfries had adopted during his possession of the estate, and that a considerable number of building leases under the powers of the Montgomery Act were so granted by my father between 1820 and 1847. So far as I am aware, or have been advised, only two cases of renewal were granted by him. The particulars are not fully known to me, but it would appear that each of these cases was exceptional, and that the new rent covenanted represented the net annual rental of the house situated upon the leased ground. I do not in this reply make any reference to certain extensions or renewals which were made by my curators during my minority, as I was not in any way responsible for them. I am advised that previous to an Act of Parliament passed in the year 1882, an heir of entail in my position had no power to renew a lease of any kind previous to the expiration of a current lease. It was, however, provided by that comparatively recent Act that at any time within two years previous to the expiration of such lease the heir of entail may grant a new lease at a fair rent to commence at such expiration. This enactment is quite general in its terms, and it is considered that it applies to building leases as well as to farms. As I am

Chairman—continued.

anxious not to put the leaseholders of Cumnock to any inconvenience by removing them from their homes, I have to state that, so far as the law permits me, I am willing to enter into negotiations with individuals for renewing leases at a fair rent in accordance with the enactment just referred to. I shall be pleased to receive and fully consider any applications which may be made to me in cases of the description just mentioned. I beg, however, I may be allowed to observe that out of the 83 signatures to the memorial submitted to me there are only, so far as I know, seven instances in which the leases expire within the next ten years, in only two of which do the leaseholders possess the houses themselves, all the others having elected to reside elsewhere than in the house leased to them or their predecessors. Of the remaining cases 19 only expire within the next 50 years, of whom about the half are in personal possession. I venture to make these observations with the view of explaining clearly the course of action by which I mean to be regulated, and I trust that the leaseholders will do me the justice of believing that I have most carefully considered their memorial and the whole circumstances relating thereto with the desire of acting with such liberality as the justice of the case appears to me to permit of.—I am, your obedient faithful servant (signed), *Bute and Dumfries.* William M'Letchie, Esq."

Chairman.

874. Can you tell us what was done with the houses and plots of building land that were resumed in this way?—There is one case that I am reminded of by Lord Bute's letter that was tenanted by the proprietor. In that case the leaseholder has been allowed to remain as tenant at an annual charge of 4*l.*, the previous rental of the property having been 12*l.*

875. How do you account for that difference?—He has been allowed to sit simply by paying an increased annual feu duty, or lease duty, of 4*l.* That is what it comes to. It is simply a rent of 4*l.* He is only a tenant now.

Mr. *Donald Crawford.*

876. Do you mean a yearly tenant?—I am not sure, but I think he has either nine or 10 years of it.

Sir *Charles Pearson.*

877. What was he before?—Proprietor and tenant.

878. Ninety-nine years?—Ninety-nine years.

Chairman.

879. Just let us understand that; I do not quite understand. I thought you said he was now sitting at a rent of 4*l.*, and that the previous rent which he paid as long leaseholder was 12*l.*?—No, I should explain: When he was proprietor of the property it was entered in our valuation roll at 12*l.* of rental.

880. That is what I mean?—And the entry in the valuation roll was 12*l.* when he was proprietor.

881. The entry in the valuation roll was 12*l.* when he was proprietor?—Yes. Now he is not proprietor; Lord Bute is proprietor, and it appears on the rent-roll as 4*l.*

882. What I want to know is this, how we regard a property the annual value of which, as ascertained for the valuation roll, was 12*l.*, he is getting it for a third of that?—Well, I make this remark in regard to that: "We need scarcely point out that if such a course became general our assessment roll would be seriously affected."

883. Your assessment roll would be affected, but it would be very comfortable for the tenants. I want to understand it. It seems, according to that, that Lord Bute allows him to sit for one-third of the valuation roll entry?—Yes; we must admit that it was very generous to the tenant, in one sense at any rate, but at the same time it is very hurtful to the burgh; that is the point.

884. I see. What is the duration of the 4*l.*?—I think it is nine or 10 years, but I am not very positive upon that point. I am not quite positive. This party had lived in it nearly all their days, and it was too much, I think, for the Marquess to turn them out.

885. Do you know what the rent under the 99 years' lease was?—You mean the feu rent?

886. It is not "feu"; it is a rent?—The lease ent?

887. Yes, under the long lease?—It is very small; it is comparatively nominal.

Sir *Charles Pearson.*

888. Can you give the name of the tenant?—Yes, Charles Thompson.

Chairman.

889. I just wish to know what exactly the complaint is. Is the complaint that whereas under the long lease you were entitled to enter the present value and not the rent paid, you now under the shorter leases only enter the rent paid, and not the actual value?—Quite so.

890. I understand that as a matter of writing you know?—We do not quite understand how it can depreciate to such an extent all in a day; no action has been taken.

Sir *John Kinloch.*

891. When did it happen?—Some years ago.

Chairman.

892. Are you satisfied that it is a *bonâ fide* lease. I suppose it is a *bonâ fide* lease?—I understand so.

Dr. *MacGregor.*

893. Does not the landlord pay the difference?—He is only assessed on what appears on the valuation roll.

Chairman.

894. That leaseholder would not be complaining?—No, I would not wish in any way to hurt him, he is a very decent fellow.

895. That is a solitary case?—I may say that is the only case where the proprietor was tenant of his own property. All the other cases were cases of proprietors who were not living upon the premises and his Lordship would not in any case deal with

Chairman—continued.

with them; they all lapsed without any chance of renewal.

896. Could you tell me (I think probably the Committee would like to know) what Lord Bute has done with those properties which have fallen back to him in that way?—He has simply repaired them slightly and kept tenants of his own.

897. Let them?—Let them, yes.

898. I mean they are still occupied?—They are still occupied by tenants.

899. By inhabitants of Cumnock?—Yes.

900. And at what kind of rents?—Perhaps (about) at an average of 4*l.*, the most of them, I think, 4*l.* to 6*l.*

901. How does that rent compare with the value of the subject?—I have the valuation roll and can give it you.

902. Have you any observation to make as to the rents at which they have been let, either as to their being high, or low, or fair?—I would say they are fair. What we would point out is that had there been renewals we would have been very much more likely to have got substantial properties built upon those leases; we would, I know, in several cases have had substantial properties very suitable for working-class residences. That is the position we take up as a burgh.

903. What condition were the houses in in the case of these six that fell out?—Well, they were quite habitable, they had been kept in fair repair, and were quite habitable. I have heard it stated that that was not so; but as far as my information goes they were kept in repair, and no fault was found by the burgh authorities so far as the sanitary condition was concerned.

904. Then do you suggest that that tenure and the way in which it is dealt with has any effect, either favourable or unfavourable upon the prosperity of the town?—Very much so; it has affected it very much.

905. What do you desire to say as to that?—I wish to point out that the building trade is at (about) a standstill.

906. You have said that already?—That is how it affects us, that we can make no advance as a burgh, because all the old feus are built upon, and if we are to advance it can only be through the obtaining of feus, not 99 years leases.

907. I think you said the chief industry, apart from being a country town, was mining?—Yes.

908. Is there manufacturing of any kind?—Yes, we have two woollen manufactories; not large ones.

909. Are they considerable?—No, I would say not.

910. How many hands will each of them employ?—From 20 to 30.

911. Has any difficulty been found in getting house accommodation for any of the working classes of any kind who have desired it at Cumnock?—Every house is full.

912. Have people been obliged to go away, or not accept employment there, for want of house accommodation?—I could not speak to that.

913. Are there any other effects that you desire to describe as in your judgment flowing from that condition of matters?—No; just simply that the whole has a very depressing and very disheartening influence upon the whole of the householders, very depressing. The town is, as it were, throttled by the action of Lord Bute.

914. Have you any suggestions to make for a remedy of that condition of affairs by legislation?—Well, I am desired by the leaseholders to suggest that powers should be granted to heirs of entail, without going to the Supreme Court, to convert present leases into feus with perpetual tenure at a reasonable feu, and that compensation ought to be given where an agreement cannot be arranged.

915. Do you mean compensation for the house that is left?—Yes.

916. Have they any views as to the rates at which that should be?—No.

917. Is there anything else that you wish to suggest?—In the case of new feus, I think we would favour a mutual arrangement between landlord and feuar if the restrictions that at present exist, so far as entailed estates are concerned, were removed, and full power given to heirs of entail to grant feus. Possibly, in the case of difficulty, an arbitration might be established to settle the matter. I think, so far as I am concerned, I would prefer that to the roundabout way of doing it through county councils or even through burghs.

918. Do you mean that you think an individual should have a right to claim a piece of land on arbitration terms?—Not necessarily any piece of ground. What I think is the great difficulty in our case is that Lord Bute is hampered with conditions of entail, and it is almost a matter of conscience with him, that he must carry out that and preserve the estate. I think if these restrictions were abolished, and that he became very much like an ordinary proprietor, where there was no entail, we should have no difficulty in arranging with Lord Bute or with his factor, as to the ground or as to the rent, quite as easy as arranging for a 99 years' lease. I think we would have no difficulty, the difficulty is in the law. I do not know how that can be overcome; you, of course, know that; but we simply think that if the difficulties were removed of heirs of entail, and they were enabled to grant feu charters, without going to the expense of going to the Supreme Court, it would be managed agreeably and mutually.

919. Then does it come to this, that what you complain of is the restrictions under which Lord Bute is placed, rather than any unwillingness on his Lordship's part to do what you would regard as right, if he were free?—Well, of course, I would wish the matter to be compulsory.

920. That is what I want to know; they are two different things?—Yes.

921. I just wish to know about that; supposing he were relieved from fetters, supposing he were a fee simple feu proprietor, not under any restrictions, what suggestion do you make as to the right of an individual proprietor to get building land?—I think you said you would prefer that the individual should have a right to claim rather than that it should be done through county or burgh councils?—Yes.

922. Now,

Chairman—continued.

922. Now, will you just tell us what you suggest as to the individual having a right to claim building land?—Where it could not be arranged mutually, I think that a Government official, or the sheriff, or a Government arbiter, appointed by neutral parties, might be called in.

923. Would you suggest competition?—No.

924. Suppose a number of people want to secure the same pieces of land?—I think both landlord and feuar should be entitled to state their case before a man who is appointed by a thoroughly neutral party, that the case should be stated, and that it should be in the hands of the arbiter to decide whether the feuar is unreasonable in asking a certain piece of ground, or in asking a certain piece of ground at a certain rent.

925. Suppose several people, intending feuars, wanted the same piece of ground, would you suggest competition among them, or what would you suggest?—I do not think that is practically likely to arise; we have no end of ground, we have no lack of ground, so far as we are concerned; we have the whole country round about us, and I anticipate no difficulty. I quite appreciate what you mean, but I anticipate no difficulty so far as we are concerned, and I think we should get on exceedingly well with Lord Bute, if he had full liberty, and perhaps a little power to appeal to a neutral man, too, in some cases.

926. But, giving power to appeal not only as to the terms of the feu, but the reasonableness of demanding that particular piece of ground?—Yes, I would be quite inclined to admit that. Lord Bute's residence is not far from the town, perhaps a couple of miles, and I would be quite willing to acknowledge that it would be unjust to go down and take possession of his policies as feuing ground, I would recognise that at once, but there is no practical difficulty at Cumnock so far as we are concerned. I certainly think Lord Bute should have his rights, but that we, as householders, ought also to have our rights, so far as the land is concerned; and that the landlord should not have just the one side, his own side, only. We think that there are two sides to it, and we at present occupy such a position that we are not in a position to make a bargain of a satisfactory character.

927. Has his lordship ever offered any land for feu in the neighbourhood?—None.

928. I think you said he has taken no steps to capacitate himself for it?—No, he objects to it, so I understand. He has given us ground for our town hall—he gave that—he had to apply to the Supreme Court to get that arranged, but that is the only thing, so far as I know.

929. Do you suggest that if land had been more easily obtained there would have been either a development of existing industries, or new industries established in Cumnock?—Well, we have often heard rumours of parties coming to look at Cumnock to see about lace manufactures and shoe manufactures, and one thing and another, but I have nothing to go upon. We hear these rumours, and I do not attach anything to them further than this, that there could

Chairman—continued.

be no more suitable centre for such manufactures than our own; but whenever they hear that it is only 99 years lease land, you can quite understand that they soon take their leave.

930. Have you anything else to offer as representing your burgh, or those who ask you to come here?—The only matter that I would wish to refer to is the "casualties."

931. You have some feuars; I think you told us that you have feuars to the amount of 4,091*l.* a year?—I only wish to say, we are placed somewhat similar to Kilmarnock, about which you have had a good deal of evidence, our feuars being charged a year's rental of the property on the death of the vassal. That is the casualty that we have to pay. I had to compound with Lord Bute just lately myself on that footing.

932. Has that casualty generally been exacted, or allowed to lie over, or foregone in many cases?—There has been a considerable, I would almost say, zeal within the last 12 or 15 years perhaps, more than what there was at one time.

933. Had not the casualties been looked up, and demanded on the deaths of vassals before that?—Not with the same regularity. I think more pressure has been brought to bear upon feuars within the last 15 years, so far as I understand it.

934. Could you give us any idea of the current rates at which these feus were granted?—They are very low; nominal, as a rule.

935. Are they old, or comparatively modern?—Old; very old, some of them.

936. I should rather gather from what you have said that they cannot be new; they have not been granted very lately?—No.

937. Because the estate has been entailed?—Yes.

938. Did the predecessor of the present Marquess grant feus?—No, he granted 99 years' leases. Lord Bute in his letter states that.

939. I noticed that, but you have no idea what proportion of the (practically) 4,000*l.* a year of feu duties is for old feus and what proportion for new?—No, I have no idea; the whole of the feus are old.

940. Is there anything else you wish to urge?—No.

Dr. *MacGregor.*

941. Do I understand that you are here in your official capacity as Provost of Cumnock?—Yes; I am appointed by our Commissioners of Police. The Commissioners called the feuars and leaseholders together, and I am here with the goodwill of the leaseholders as well.

942. You represent them as a whole, as a body?—Yes.

943. The principal grievance you are here to represent is, that the Marquess of Bute refuses to feu further land to the people?—Yes.

944. On any terms?—Not even to grant the 99 years renewal.

Chairman.

945. Leases?—Leases.

Dr. *MacGregor.*

946. He refuses to grant the renewal of the long leases?—Yes.

947. And,

Dr. *MacGregor*—continued.

947. And, as I understand you, he does so on the ground that his estate is entailed?—Yes.

948. But I think you said shortly afterwards that he does not wish to do so; that he objects to doing so, even if he were relieved of that?—I think you may gather that from his Lordship's letter, that he objects unless the proprietor be tenant; that is the only case that he will consider, you understand.

949. That is to say, he will have no absentees?—Yes, that is the point.

950. Would he renew a 99 years' lease to any man on the condition that he would live on the property?—Well, I would gather from that letter that it is so; you have his letter before you.

951. Can you tell me the annual value of the land in that immediate neighbourhood, I mean the agricultural land?—As regards the annual value of land in that immediate neighbourhood, I have a farm of my own alongside, and I pay about 18*s.* to 20*s.* an acre; but there is some land more valuable at another side of the town, worth, I should say, 2*l.* an acre.

952. All arable land?—All arable land.

953. It depends upon the quality of the soil?—There may indeed be some of it as high as 3*l.* an acre; some of it is very good land.

954. How does the average compare with the rental charged for the feuing ground?—I should say there is no comparison almost.

955. Is it five times more, or five to ten times more?—A very common lease rent is 2*s.* a pole. For favoured spots 4*s.* to 7*s.* 6*d.* a pole.

956. How much is that an acre?—Four shillings would be 32*l.*, is it not?

957. There are 160 poles in an acre, are not there?—Yes.

958. That multiplied by four is, roughly speaking, 32*l.*?—£. 32.

959. You have said that in consequence of his Lordship's refusal the trade of the town is practically at a standstill, if it does not dwindle?—That is so.

960. And that the people are disheartened and discouraged?—Yes.

961. Therefore, the whole community suffer in consequence of this action of the proprietor?—Very much so.

962. Therefore, in order to meet the case, you come here on behalf of the people to suggest compulsory powers; that is, that land should be taken by compulsion at a fair rent, as I understand you to put it?—Yes.

963. That is the general opinion of the people you represent?—Yes; that we ought to have the power to get land for building purposes.

964. At a fair rent?—At a fair rent.

965. You do not want to rob any landlord, or deprive them of his property?—There would be no difficulty about the rent; we would pay even an exorbitant rent, I may almost say, if we could get the land.

966. What you want is an alteration of the law, which would enable the community to take what they require at a fair rent and on fair terms from the landlord?—Yes.

967. That is, to compel the landlord to part with it on these conditions?—Yes, to put the

Dr. *MacGregor*—continued.

law in such a condition that we would be able to get land.

968. And as Provost of Cumnock you think that a reasonable thing to expect?—I do.

969. You do not know any reason to the contrary; you do not know any special reason why Lord Bute should refuse to comply with that?—I can see no reason—as heir of entail, I think, it would be improving his estate, improving the value of it; and as trustee I think he would be doing the right thing to grant feus and to renew the present leases, because properties would be new-built of more substantial character.

970. And in order to arrive at a fair value of the land, you would suggest arbitration?—Yes.

971. Independent arbitration?—Yes, where the two parties could not agree.

972. What you mean by "independent arbitrator," I presume, is that the Crown or the Government should appoint an independent arbitrator?—Exactly.

973. Who should say whether this was a suitable application, and whether this offer of rent was suitable—that is what you mean?—That is my idea.

974. You think from a popular point of view that would be a reasonable state of the law?—I am quite sure it would satisfy us.

Sir *John Kinloch.*

975. Besides this grievance of not being able to get land, you mentioned that another grievance was the casualty cost; what is your cure for that?—Well, I do not profess to be very well up in that, and I would not like to speak with any degree of confidence, because the question is so intricate.

Chairman.

976. We have had a great deal of evidence about it?—Yes, I think you have got no lack of evidence to guide you.

Sir *John Kinloch.*

977. You give no expression of opinion about it?—No; we feel the hardship and uncertainty of this casualty. For myself, I was very much surprised when the demand was made upon us, and we had a great deal of search as to who the vassal had been and all about him. Several different proprietors had come in between us and the vassal; they were all living and why they should not have been entered before us was very strange; we had to submit however.

Mr. *Donald Crawford.*

978. I understood you to say that you thought that if the entailed restrictions were not fettering Lord Bute, the inhabitants would be able to come to terms with him without this?—I do think so. I think Lord Bute is fettered in a way that he does not desire; that is my own feeling. He is a generous-hearted good fellow, is Lord Bute. I think he has taken a sort of conscientious view as trustee of the estate, and if relief was given to him I think that he would deal with us in a different way.

979. But then, if I rightly understood his letter, he said that he objected to giving feus just as much on those estates in which he was not

Mr. *Donald Crawford*—continued.

not fettered?—Yes, I quite agree that he makes a general remark of that sort.

980. That, in short, he objects to the system of feuing altogether, except in special cases; that is his opinion?—Yes.

981. Therefore, it would hardly relieve the difficulty, if the law of entail were altered. And then, is it not the case, especially in the hands of a very large proprietor, that the difficulty of obtaining powers by going either to the Court of Session or even to the Session Court is not serious?—He seems to object to do that. He seems to object in the cases that I am dealing with, and I think that a little gentle pressure ought to be brought to bear upon him in that respect; that he ought to be compelled to do it, and call in the arbiter if we cannot agree.

982. I would rather like to clear up what you said about the absentees. In answer to Dr. MacGregor, I think you rather indicated that if the leaseholder were actually in personal occupation of his house, the Marquess would not be indisposed to grant him a renewal. Now I would like to know whether you can test that by the cases in which leases have actually fallen in. There has been no renewal in those cases, has there?—There has only been one renewal, or rather not a renewal, but one in which the tenant remains in possession, but only as a tenant.

983. The case you have previously described?—Yes.

984. The 4*l.* case?—Yes; he lost his property, you understand.

985. In how many other cases have they fallen in?—Six altogether.

986. Were the people in these six cases all absentees?—Well, one of them lived in the town, and had the property let. He lived in the town, but it was not such a property that he could inhabit it himself.

987. None of the others were living in the houses?—None of the others were living in the houses except in the one case.

Sir *Charles Pearson.*

988. Except the one who got the 4*l.* rental?—The one who became, not proprietor; he did not get the renewal of his lease for 99 years; he only became tenant.

Chairman.

989. He never was anything but a tenant you know, as I understsnd?—Yes, he was proprietor of his own house.

990. You mean, he was a 99 years' leaseholder?—Yes, he was proprietor of his own property, but he ceased to be proprietor when the new arrangement came into vogue.

Mr. *Donald Crawford.*

991. That is only the valuation roll description I understand; he may be so described for that purpose. I do not know whether it is of great importance, but as to that reduction, you say that the assessment of the town suffers by the house being reduced from a 12*l.* valuation to a 4*l.* valuation. Have you any remedy against that?—Supposing now that a man had a house worth 200*l.* a year in a large town, and he let it to his mother at 10*l.*; that is quite a conceivable thing and quite a proper thing?—Yes; I believe we have the remedy in our own hands, but it would have been such a small matter that I do not think it was necessary to take action. We might indicate what was possible, but I believe we have the remedy in our own hands, so far as the assessor is concerned.

992. Then coming to your compulsory remedy, you propose that any individual should have the power to claim a feu, subject to arbitration?—Yes; I would amend the Montgomery Act by striking out "99 years" and putting in "for ever," and giving him the liberty. I think that would be a very fair amendment.

993. That is quite a different point; that is the power the proprietor has; we have disposed of that. I am now speaking of the rights of the public to become feuars?—Yes.

994. Now, do you suggest that any individual should have the right, subject to arbitration, to claim a feu?—I do.

995. Even a stranger?—I think anyone that wants a piece of land to build a house upon, to reside or do business in, ought to be able to go to the landlord and say, "I want a feu." I am quite willing to make it a mutual arrangement as to what the ground is to be, and what the rent is to be, but I think every man ought to have the power to go to a landlord and say so.

996. You think that is a better principle than the principle of the demand being made by some representative or public authority, which would make a *primâ facie* case that there was a real demand for it; you prefer to give the individual the right?—I think everyone ought to have that right. I can see great difficulties in regard to that Bill of Mr. Haldane and Mr. Munro-Ferguson; very great difficulties.

997. I daresay that you and I would not like to go into the details of that. Of course, we should all wish to be perfectly just to the proprietor as well as to any other person, but do not you think it would be rather a strong thing if I were to go down to Cumnock by train to-morrow and say that I wanted a feu on the Dumfries estate. What claim do you think I would have to interfere with the Marquess, who owns that estate?—I do not think you require, as it were, to have any special claim, except your individual requiring of the house; that you think this is a very nice situation for a house, and that you wish to have a piece of ground to build the house upon.

998. You think that is quite sufficient?—I really do. I think you require no more right as far as I can understand.

999. I think there is only one other question I need ask you. I did not quite get clear your view about the amount of the feu duty. You said, I think, that the feus are all old, the existing feus?—The feus are perpetual.

1000. All feus are perpetual?—Sometimes, but not these 999 years.

1001. No, that is not a feu at all; I am speaking of a feu?—They are perpetual "as long as waters run," and so on.

1002. I understood you to say in answer to the Chairman that all the feus are old, of old date?—Yes, exactly.

1003. Then

Mr. *Donald Crawford*—continued.

1003. Then in reply to one of the earliest questions that the Chairman put, I understood you to say that the feu duty ranged from 8*d.* per pole in the older feus (for of course there is a difference of degree, although they may all be old) to 7*s.* 6*d.* a pole. That makes a very considerable feu duty?—These are lease rents, not feus. The feu rents are very nominal; they are very small.

1004. That quite explains my difficulty; the two things seemed to me to be rather inconsistent?—Quite so

1005. That is quite right. Then I just want to ask this question in connection with another part of our inquiry. You mentioned that there was a good deal of mining in the neighbourhood here: has there been any difficulty or any complaint at all about the houses being modernised in Cumnock?—Yes, that is so; but the feuars sold their rights, I think. They got compensation as far as I understand. The leaseholders of course did not, they were reserved by his Lordship.

1006. The feus being old feus, the feuars had a right to compensation and got it?—Yes.

1007. Has there been any special complaint, or any special damage or grievance, on the part of leaseholders? Have you anything to say about that; are there any facts that you know about that?—The damage to property has been considerable, but nothing has been done in the way of taking action against the mineral lessee. No doubt the properties were ragged and cracked and twisted. The argument was that they would all come right when the minerals were wrought out on the other side. I have one property in that position; there was a rent in it the size of your hand, and I quite admit that that has so far closed up; but I do not know of any feu holder or leaseholder who has got any compensation for damages to their property. No compensation has been given to any of the leaseholders for damage to their property.

Sir *Charles Pearson.*

1008. Are the minerals all worked out?—The minerals are all worked out now.

1009. Is there any other considerable landowner in, or near, or adjoining Cumnock?—The Auchenleck Estate comes close in to us.

1010. Is any part of the town built upon that?—Yes.

1011. Is that feu or leasehold?—Feu.

1012. Entirely?—Yes, it is a disentailed estate.

1013. It is entirely feu?—It is entirely feu. I may say that on that estate they grant feus at eighteenpence a pole and a duplicand feu of 25 years.

1014. Do you know the number of leasehold subjects in Cumnock held of Lord Bute?—Not the number.

1015. I am told it is 126?—I can give it you before I leave if you want it. I have the valuation roll and all ticked off. If you wish the number I can give it you; 126, with about 300 tenants occuping houses built on these leases.

1016. You will add it to your evidence when you get the proof?—Yes.

1017. Is the rental of 8,800*l.* that you gave us the rental as it appears in the valuation roll?—Yes.

Sir *Charles Pearson*—continued.

1018. Then that includes the Auchenlech Estate?—Yes.

1019. It also includes the feus and the 999 years' leases?—Yes.

1020. And of course, with regard to the 99 years' leases, the value that you gave us (3,173*l.*) as being in the valuation roll, is not what the Marquess gets but what the occupants are valued at?—Yes, the proprietors.

1021. Can you tell me how much the Marquess draws from these properties?—No, I have no means of getting at that.

1022. You said the old policy used to be to grant renewals: do you mean in the time of the present Marquess' father?—He acknowledges two cases himself there.

1023. "Two cases" would not make a "policy"?—You understand there was not the same necessity for late renewals, because they were not so old in the Marquess of Bute's time.

1024. So I thought. What did you refer to when you said the old policy on the estate was to grant renewals?—They did not object to renew them if the tenant wished to build a superior property; they were quite willing to meet him and to make terms.

1025. You mean the old policy in the time of the late Marquess?—And during the present Marquess' minority, when he was under curators.

1026. How long did that last; that was from 1848 to 1861, was it not?—I am not sure that I can give you the dates.

1027. During that time do you say that renewals were granted?—Yes.

1028. Do you know of any personally?—Yes.

1029. Do you know how many?—It would be five or six, I think, in the time of Lord Bute's minority; five or six, I should say.

1030. Five or six during the years of his minority, you think?—Yes; I referred to one in my opening statement.

1031. What was the name of it?—McLetchie. The lease of this property was renewed 13 years before the term expired, and the tenant put up a very good property instead.

1032. I understand your idea of the Marquess' objection to granting perpetual rights applies to residential subjects as well as to public works?—I understand so.

1033. But the only instances you gave us of persons objecting to take leaseholds were instances of persons who had works or factories in contemplation?—I think it applies all round; there is a general disinclination now to put up anything on a 99 years' lease.

1034. There is a general disinclination now to take 99 years' leases for any purpose?—Yes, that is so.

1035. Even for residential purposes?—Yes.

1036. You said, I think, that in the last 12 years there were six instances of resumption?—Yes, that is so.

1037. In five of them the parties were not residing on the property, but were sub-letting at a very considerable profit-rent?—Yes, in several

Sir *Charles Pearson*—continued.

several cases they had bought the property and were letting it out in the usual way.

1038. I mean for a very considerable advance in rent as compared with what the Marquess was drawing for the subject?—I do not understand you.

1039. We are speaking of the long leaseholds?—Yes.

1040. The Marquess drew the rent payable under the bargain of the long lease; in five out of the six instances that we are now speaking of the lessees were not residing, as I understand, upon the property?—That is so.

1041. But the property was let at a rent greatly larger than that which the Marquess was drawing from those subjects; is not it so?—I understand you are referring just now to the lease-rent of the land?

1042. I cannot make it any more clear than I have done?—When you speak of Lord Bute's rent of the subjects or property, I do not quite understand.

Chairman.

1043. He only got one rent?—He only got the lease-rent.

1044. Exactly?—Then the proprietor got the annual rent of the property.

Sir *Charles Pearson.*

1045. Quite so. Was not that much larger as regards any particular property than the Marquess was drawing under the lease?—Certainly. Oh, yes.

1046. So that it was a case of resuming at the termination of the contract in cases where the proprietor was not residing, but was drawing a large profit rent?—I do not know whether you call it "profit-rent." These people that bought the properties paid a considerable sum for them, and they were drawing, perhaps, interest on their money to the amount of four per cent., or something like that; but, of course, they lost the whole capital, because it was taken from them.

1047. Surely they knew that they were purchasing the reversion of a lease, did not they?—I would wish to impress upon the Committee that they had been led to understand that the renewals would be granted, and these properties were bought, I can assure you, on the practice of the estate.

1048. Now, will you, please, give us any instance of that; I mean, of the undertaking to renew?—I am not quite sure that I can give actual instances.

Chairman.

1049. I think you only said that they "had been led to understand"?—They were led to understand.

Sir *Charles Pearson.*

1050. By whom; give us the particulars as to that?—I mean from the action of the estate in other cases. Other cases had been renewed; therefore they thought they would be justified in acting upon the policy of the estate as shown in other cases.

1051. That is what I am anxious to get to. The policy of the estate as you have indicated

Sir *Charles Pearson*—continued.

to us, depends upon two instances in the time of the late Marquess, five in the time of the minority of the present Marquess, and, as far as I can find, nothing else?—That is all; but you quite understand that the leases were not running out at that time, and it was only in cases where they desired to put up a superior property on the ground.

1052. Quite so; so that these were not even typical instances of renewals at the end of the contract at all?—No; at the same time they were renewals, and the general idea of the people was that when these leases came to fall out there would be no difficulty.

1053. Now, the sixth instance you gave us was the only one where the lessee was resident upon the ground?—That is so.

1054. And that is the case where he got the property back, but at a rise of rent?—Yes, as tenant.

1055. I am very anxious to know this: Can you tell me how much rise of rent he had to pay. Cannot you tell me what that man, Charles Thompson, previously paid to the Marquess?—Twelve shillings.

1056. You do not know?—The arrangement was a modern lease-rent of 2*s.* a pole, which came to 4*l.* 12*s.*; he had been allowed just to get it at 4*l.*; that is the bargain between them.

1057. Do you mean by "modern lease rent," a rent representing the full value of the subject?—No; 4*l.* was not the rental of the subject at all.

1058. You have no reason to doubt that the 12*l.* entered upon the valuation roll previously for that tenure represented the fair annual value?—Yes, that is right.

1059. Your chief objection, in fact your only objection, to a transaction of that kind is that it eats a way into the valuation of the burgh, and diminishes their rights?—Quite so.

1060. That would not become serious unless it were largely multiplied?—Quite so; we do not anticipate a great deal to come of that.

1061. Can you tell me if any recent instance is known to you of the Marquess having been approached by the inhabitants with an expression of their desire for more land?—Not an individual case.

1062. Or any collective case. Has the Marquess ever been approached by the community with the expression of a desire to get more land?—What land they want on 99 years' leases they will get; Lord Bute will grant land on 99 years' leases, but the community generally are against that.

1063. And your opinion of his antipathy to feus is founded upon his reply to the memorial you have read?—Yes.

1064. He saying that he does not like the feudal system, and that he objects to creating new vassals?—Yes; quite so.

1065. Of course, the purpose of that memorial seems to be entirely to ask for renewals in the case of existing grants?—Yes.

1066. And not to ask for the granting of new and additional rights? That is what strikes me?—Yes, quite so.

1067. Has the Marquess ever been approached by

Sir *Charles Pearson*—continued.

by the community or by individuals with a request for the grant of land for new buildings?—You mean for 99 years' leases?

1068. Yes, or feus; either leases or feus?—Yes. In several individual cases.

1069. Has there ever been any requisition for feus?—I think in that memorial that I read the feus are requested.

1070. The memorial will speak for itself; but I find nothing about it in the memorial?—He seems to consider the memorial puts it in the way of wanting feus, and he says, "I'm against that."

1071. The memorial, as I understand it, was confined to a desire on the part of persons with existing rights to get a prolongation of their rights, either of feu or of lease?—Yes.

1072. Has there been any representation to the Marquess for the grant of new rights for new occupants, either of feuing or leasing?—I think not lately.

Sir *Charles Pearson*—continued.

1073. Is not that the real test of whether the burgh is, as you put it, "throttled by the action of the Marquess"?—The only thing that can be got is 99 years' leases.

1074. Is not that the real test as to whether the burgh is really "throttled"; that demands for new sites in order to increase the population of the burgh have been refused, and that, as far as I can discover, has not happened?—They have not been refused, because they have not been asked for.

1075. Why?—For the simple reason that they will not build any more property on 99 years' leases. They know Lord Bute's mind in regard to feus.

1076. And they take that as final?—Yes, as final.

Mr. JOHN BROWN, called in; and Examined.

Chairman.

1077. WILL you just state what you desire to place before us?—I was elected schoolmaster by the heritors in 1854, and appointed inspector of poor in 1854. I am intimately acquainted with Newcastleton and its inhabitants. The number of feuars largely depending on their land and house-rents does not exceed 12, and all these, except three or four, have other means of assisting their earning their livelihood, such as carting and ploughing for their neighbours. Poverty can scarcely be said to exist in Newcastleton. The large majority of the people are in fairly comfortable circumstances, and from their proud and independent spirit are quite indignant at anyone calling them poor. A church in connection with the Church of Scotland at Newcastleton was built five years ago, and 89 people in the village subscribed 90*l.* or thereby. A manse built 10 years ago for one of the Dissenting clergymen was largely got up by the villagers, and the church of the United Presbyterian congregation was added to and repaired three years ago at a cost of over 300*l.*, largely subscribed by the congregation. The number of poor on the Poor's Roll in 1855 was 74; in 1894 it was 15. The assessment for the poor in 1855 was at the rate of 1*s.* 1*d.* per £.; in 1893 it was only 3*d.* per £. The whole assessment in 1855 amounted to 711*l.*, while in 1893 it had fallen to 282*l.* I have collected poor rates since 1855 and school rates since 1873, and during all these years no arrears have been left, though there are over 300 ratepayers. The decrease in pauperism may be accounted for by the general prosperity of the country, the people being better employed, and receiving better remuneration for their employment, and also by the very liberal spirit of the parochial board displayed in the maintenance of the poor, and especially of their families. The children were not only alimented, but liberally supplied with clothing and kept at school as long as they would attend regularly, which in the case of some families would last until the children were 15 years of age.

Chairman—continued.

1078. Is there anything else you desire to say?—Nothing more.

Dr. *MacGregor.*

1079. I think you said that the people have other means of livelihood?—Yes.

1080. What are those other means?—Well, there are men working on the railway regularly employed as surface men and foremen, who have feus; there are masons, tradesmen of various kinds, with feus; there are labourers (agricultural labourers), with feus; and these all gain their livelihood there; and of course a cow goes a long way in maintaining the family.

1081. Where do they get this labour?—Well, the Duke of Buccleuch employs a good many men, and, as I have said before, the railway company employ a good many.

1082. Apart from the railway, where do they get it?—They get part from the railway, part from the Duke of Buccleuch, and part from the farmers.

1083. Are they in pretty regular employment all the year round?—With the railway company of course they never lose an hour. Well, masons, you know, cannot work in frosty weather.

1084. How many of the villagers, speaking roughly, do you think, get employment on the railway?—Well, say, perhaps between 20 and 30; I could not count them just now, although I know every man of them.

1085. I think you said the poor assessment has considerably diminished?—Very much.

1086. How do you account for that?—I account for it in this way: You have no idea how kind the Parochial Board has been, they have alimented the poor handsomely, and allowed me *carte blanche* to clothe them and educate them, and no children educated by the Board have ever come to be paupers.

1087. How many paupers have you in the village of New Castleton?—Eleven.

Dr. *MacGregor*—continued.

1088. At present?—At present.

1089. What is about the annual average number, taking the last 10 or 12 years?—Well, I could not exactly say, but they have gradually decreased from 74, as I have said, in 1855; indeed in 1854 there were 76.

1090. You attribute that, I presume, to having work on the railway and so forth?—Yes; and we have few children. I have seen us have about 30 dependents, but I do not suppose we have more than about six now.

1091. Why is that?—They have all been educated and gone off. Many have come to London to situations. Many have gone to Hawick and other places, banks and offices, gone into business.

1092. Is their leaving the place not due to the fact that there is nothing to do there?—Well, those children who have ambition to push on never think of remaining at Newcastleton. We have no offices in Newcastleton; we have a bank there now.

1093. Do not you think many of them would settle there if they had some land to work? Do not you think many of them would be glad to become considerable crofters and to work the land themselves, instead of going to seek their livelihood elsewhere?—But if they had not houses they would not.

1094. Is not there room for houses there?—Well, I daresay there is room for them.

1095. Why should not the people be allowed to build more houses?—If houses were built they would just have to be built on the crofts or the fields.

1096. Why?—Because the fields come close up to the village.

1097. Might you not go a little further afield; you need not stick to the village to get a house and a bit of land? Could you not put some more crofters upon this Roan Farm who would pay 16*s.* an acre instead of 2*s.*, as the farmer pays? Do you think it is not feasible to plant more of the people of Newcastleton on the land; I do not mean to bring strangers in at all, but the people that grow there and have to go off elsewhere to seek their livelihood; would it not be a very practical thing to put them on a portion of this Roan Farm?—I do not think it would be a prudent thing,

1098. Why?—I do not think it would be an advantage to them; they make a far better livelihood by going abroad.

1099. In what respect?—Many of my former pupils have come to London, and are now making handsome incomes, a thing which they never could do at Newcastleton.

1100. Does it not strike you that leads to overstocking the labour market in London, and cause thousands of the people of London to go about unemployed in the streets?—I quite think that is the rule, though the people are always crowding into the towns.

1101. Do not you agree that that is one of the causes of their so doing?—Yes; I do.

1102. Do not you think if the people who swell the over-population of London were planted on the soil in their own neighbourhood, it would relieve the labour market both there and here?—It improves the wages of the people there, the scarcity of labour.

1103. Certainly, but it diminishes the wages of the people here, you see, where you send them to. Cannot you see that if you send them to London that brings down the wages of other people?—But I must stand up for my own village.

1104. I am asking you a question just on general principles?—I know that some of our servants get 12*l.* and 13*l.* the half-year.

1105. Yes, very likely; whereas the London servants would be getting 15*l.* if it were not for them. Do you see that? Have not the London people reason to grumble when you send your people up here while you have plenty of land to put them on?—They could never make such incomes as they can make in London.

1106. Well, about subletting. I understand a good deal of the land, and some of the houses are sublet at better rents there?—Yes.

1107. Is that consistent with your own knowledge?—That is so.

1108. Is the schoolhouse sometimes sublet?—Never.

1109. Nor the land connected with it?—My land?

1110. Yes.—Well I had it sublet. "I remember my faults this day," as a gentleman of old said. I had it sublet. I do not know whether Mr. Yorstoun was aware of it. That was the cause of the Duke sending round a valuer to value the lands. There was an assessor from Hawick, I think it was, a Mr. Kennedy; he came and found this field was let at 2*l.* 10*s.*, and the next field was valued at 5*l.* 10*s.* "What is the meaning of this?" *This* land was in the hands of the feuar, the other field was sublet, and much more was done for it than the feuar did for his. He got a bigger rent. This goes into the Valuation Roll. It was reported, at any rate, that the assessor was paid by percentage, and the higher the Valuation Roll was the larger the income he would get, and the Duke had to pay rates on this larger rental.

1111. My question is this, about subletting. You admit that you sublet your land?—Yes, I did sublet my land.

1112. Did not you know it was against the rules of the estate?—It was not then, but in 1857 there was a notice by the chamberlain that subletting was not allowed.

1113. I presume by subletting you got more than you paid yourself?—I did.

1114. Quite so, and you just did like the rest of your neighbours?—Exactly.

1115. Now I want your opinion on this point. Do not you think that the increased rental got for subletting is on account of the poverty or the smallness of the available land—that it is land hunger, in fact, that makes people give some little more than the tenant who is in possession? It is not so much that the land is worth it, but that they really need it or want it for some specific purpose?—Well, I do not know that. I think that where a railway surface-man or a tradesman wants a cow he will give a little more for the land rather than want the cow; he will prefer having the cow.

1116. Quite

Dr. *MacGregor*—continued.

1116. Quite so?—It is a great benefit to his family.

1117. Quite so; precisely; I admit that; but do you not think if there was more land available it would be unnecessary to give the higher rent to the man who has sublet?—Well, I dare say. That is clear.

1118. You know the Roan Farm intimately, do not you?—I know it very well.

1119. Can you give me a rough idea of how much of that farm (which I said to a former witness was 4,000 acres) is not so good as the villagers' land?—I should think 1,000 acres at any rate is mere bog.

1120. That is one-fourth?—I have been on it at the top of the Fell where one can go up to the waist among moss.

1121. The rest of the land, I suppose, is fair average land?—The Holm land is.

1122. As good as the crofters' is, the villagers' land?—I should think so.

1123. Then deducting 1,000 acres from the 4,000 acres—— ?—I am guessing a thousand, it may be 2,000 for anything I know; you have no idea; you cannot see it from the road.

1124. Would it not be a fair estimate to call it one-fourth, and to say that one-fourth of the farm is not so good as the crofters' land? Would it not be a reasonable estimate, and a liberal estimate?—I do not know.

1125. If you do that, then the rental of Roan Farm is only 2*s.* 8¼*d.* an acre; if you deduct a thousand acres of bog land; the crofters pay 16*s.* an acre for that same land?—The farm is rented at about 400*l.*

1126. But you give, as your opinion, that a thousand acres of that farm is bog land?—Oh, no, not "bog."

1127. Waste land?—Waste land; it will not grow anything.

1128. But the rest of the land is as good, you think, as what the crofters are holding?—No; the Holm land is as good.

Dr. *MacGregor*—continued.

1129. How much does that consist of?—I have no idea; it is a hilly farm, chiefly pastoral. I know the country well, but I have not given much attention to the land. I will tell you whatever you want to know, if I can.

1130. Do you say, as schoolmaster of Newcastleton for many years, that the villagers, as a whole, are satisfied with the conditions offered them by the landlord?—I believe so.

1131. What reason have you to believe that, on what do you found that opinion?—Well, I have never heard much grumbling. There was a very slight grumble at the valuation when it was raised, but all that wore away 30 years ago, and it has never been raised since.

1132. The land has depreciated since, has it not?—The value of land has depreciated.

1133. I mean "the value," of course. You would hardly expect the rental to be raised under those circumstances, would you?—No, I would not.

1134. Do not you think it would be a little more likely to be reduced?—Yes, that is more likely to be the case than raising it.

1135. Do you think it would be a reasonable thing to have rents reduced now in that district, in your opinion, having regard to the depreciation in the value of land?—Well, seeing that the farms have been reduced so little it is scarcely worth while; the farmers have got a reduction of 10 per cent. If we got 10 per cent. on the land, it would not be many pence; our rents are very low.

1136. But in proportion it must be the same. If the value of the neighbouring land occupied by farmers is reduced, and the rentals are reduced accordingly, why should not the rentals of the villagers be reduced in the same proportion? Why not? You are unable to answer. I will not press it further?—Well, it seems such a baga elle.

Mr. JAMES BEATTIE, called in; and Examined.

Chairman.

1137. Do you desire to add anything to what has been already said by witnesses from Newcastleton?—There is one thing in our village that I would mention. I think it probably might be of benefit to show the position of the village, that is the Sick Benefit Society we have in it. We have a membership of 231 to the 31st December, and a total fund of 1,685*l.* 2*s.* 6*d.*, and in a general way there is from about 80*l.* to over 200*l.* a-year paid for sick.

1138. Is there anything else besides what we have already heard?—No; it is no use going through it all again. The tradesmen of the village have been all spoken of, and I do not think it is worth while taking up you gentlemen's time.

Dr. *MacGregor.*

1139. Have you a bit of land there?—Yes.

1140. How much?—Two and three-quarter acres.

1141. Have you had that all along, I mean for many years?—Well, my wife's great grand-

Dr. *MacGregor*—continued.

father took up the feu and built the house in 1796, and it has been in the family ever since.

1142. The same quantity of land?—Yes.

1143. Have you paid the same rent all the time, since the last valuation in 1857?—I could not say for that. I never had anything to do with it until I married, and that re-valuation was before my marriage.

1144. You entered the family, and now possess the bit of land and house?—Yes.

1145. You are perfectly content, are you?—Perfectly satisfied.

1146. Would you like to have a bit more land? No.

1147. You are a tailor, are you not?—Yes, by trade.

1148. Your work consists of tailoring?—Yes, exactly.

1149. Have you any member of the family that works the land with yourself, son or daughter?—No.

1150. Have you had a family?—Yes.

 1151. Have

Dr. *MacGregor*—continued.

1151. Have they grown up and scattered?—They have grown up and left the district.

1152. Why?—For occupations elsewhere.

1153. Why did they leave their own native place to seek occupation elsewhere?—For different reasons. One of them is in a bank in London here, and we had no such thing as a bank in New Castleton; another is in a bank in Nottingham; and a third, a daughter, is in Edinburgh.

1154. In service, I suppose?—No; she is in trade.

1155. Which she could not get at New Castleton?—No.

1156. There was no work for her in Newcastleton?—No.

1157. And no work for your son even as a "banker"?—No.

1158. Do not you think a population of a thousand might keep a bank if they are well off?—There is one now, there was not then.

1159. Do you know any of your neighbours who would like to have a little more land?—Well, they might probably; I do not know just exactly.

1160. You cannot speak for others?—I cannot speak for others. We have in the village three dissenting churches and a mission hall belonging to the Established Church, two public-houses, six or seven grocers, six master tailors, three drapers, one baker, three joiners, three master shoemakers, one blacksmith, and a few carters. We have also a sick benefit society with a membership on the 31st of December 1893 of 231 (and six new members have joined since that date), with a sick fund of 1,528*l.* 3*s.* 10*d.*, and a funeral and management fund of 156*l.* 18*s.* 8*d.*, making a total of 1,685*l.* 2*s.* 6*d.*

Wednesday, 20th June 1894.

MEMBERS PRESENT:

The Lord Advocate.
Mr. Dalziel.
Captain Hope.
Sir John Kinloch.
Dr. MacGregor.
Sir Charles Pearson.
Mr. Renshaw.
The Solicitor General for Scotland.
Mr. Stephen Williamson.

THE LORD ADVOCATE IN THE CHAIR.

Sir JOHN CAMPBELL ORDE, Bart., called in; and Examined.

Chairman.

1161. YOU reside, I believe, at Kilmory, in the parish of Glassary, in the county of Argyll?—Yes.

1162. I think you desire to say something in regard to your experiences as a feuar in Lochgilphead. Would you just state in your own way what you desire to bring under the notice of the Committee. Perhaps you will tell us first who is your superior, and what property you hold there?—I am both a superior myself in that village, of part of it, and also I hold land from a neighbouring proprietor, a feu. I embodied the "subjects" I wish to bring under your honour's notice in a memorial letter that I addressed to you.

1163. Yes; I have got it?—I think my memory will serve me as to the purport of it. The only difficulty that occurs is that, coming away from home in a hurry, I had not the whole of my feu charters to refer to, those that I hold from a neighbouring proprietor, but I brought up one that I laid my hands upon; they are not exactly identical in terms.

1164. I think you sent excerpts from two feu charters; would you desire to hand in those?—Yes, I had better confine myself to these; I may say that the same sort of regulation obtained on the property that I now hold myself, but I do not wish to represent that this is peculiar to my neighbour's property at all. Looking over some old expired feus that are now in my property, I find that the same stipulation was made in them as to the payment of what is called "front money."

1165. Will you please tell the Committee, either by reading the stipulation, or by verbal statement, what "front money" is, and what points regarding it you wish to submit?—I think I may read this extract: "The said" vassal "shall be bound as he hereby binds and obliges himself and his foresaids, to pay yearly, along with the feu duties aftermentioned to me and my foresaids at the rate of 2*d.* sterling for each foot of the front of the subjects so far disponed so far as the buildings offices built or to be built thereon extend, to be

Chairman—continued.

employed and laid out for the purpose of cleaning the streets and public passages and other improvements in the village of Lochgilphead, which sum, commonly called 'front money,' is to be expended at the sight and by the directions of five of the feuars or tacksmen of the said village, three whereof to be chosen by the feuars or tacksmen, and the remainder of two by me and my foresaids, the nomination and election of which five feuars or tacksmen to be made annually if required, and declaring that in case the feuars or tacksmen shall not appoint three of their number or in case the number appointed by them shall from any cause be reduced below three, it shall nevertheless be competent to expend the said money at the sight or by the directions of the two feuars or tacksmen chosen by me and my foresaids, either by themselves in the event of there being no person or persons to act along with them appointed by the other feuars or tacksmen, or along with such lesser number than three, if there shall be a lesser number than three persons to act along with them appointed by the said feuars or tacksmen."

1166. That is, of course, a stipulation in the bargain between superior and vassal; it is not a matter of public law, but a stipulation between superior and vassal?—Yes.

1167. Then what are the points relating to it that you wish to bring before the Committee?—I draw attention to the manner in which it is arranged by the terms of the charter that this money shall be laid out. An election is supposed to take place annually; and there is another village on the same property neighbouring it, and there is another feuars' committee there; in neither case is there any notice given of the election beyond a slip of paper put in a few shop windows; I have never seen it advertised in any public paper. A large number of the owners of feus (the vassals) do not reside there. As far as I am aware there is no fixed day for the election, but it always takes place on different days for the two villages.

Chairman—continued.

1168. What is the other village you refer to?—Ardrishaig. I have once been on the feuars' committee as representing the proprietor for one year.

1169. Who do you mean by the "proprietor"?—The proprietor of the Auchindarroch estate.

1170. The superior?—The superior. Even then I never saw the accounts, and that was many years ago. I am not aware of the sum of money that is so collected, but it must have largely increased, and it must be a very considerable sum.

1171. Have you ever asked to see the accounts?—I was told yesterday that there was a copy that I could see; it is not published in any way.

1172. But did you ever ask to see it as a feuar, or as representing the superior?—No.

1173. Have you reason to suppose that if you had asked to see it it would not have been shown to you?—I think it is very probable it would have been shown to me.

1174. Then what is the grievance about it?—The grievance is this, that the committee are composed of five members, two of whom are chosen by a proprietor who does not contribute anything towards the works on which it is laid out.

1175. That was the bargain you made?—That was the bargain that I and everybody else made.

1176. Then do you suggest that that bargain should be altered by legislation?—I do.

1177. Will you kindly tell us for what reason, and what legislation you propose?—My reason is this, that circumstances have completely changed. There was no sanitary authority in those days. One of my feu charters goes back as far as 1818, and there is the same stipulation in it by my grandfather. There was no sanitary authority. There was no supervision at all for cleanliness; and the stipulation in the feu charters generally was that the dung and ashes should not be put on the street, and that the drains should be constructed. That is unnecessary now; there is a sanitary authority and there is a local authority empowered to assess for drains.

1178. Then do you propose that the vassal should be relieved from this payment by law, by statute?—I do.

1179. And the charge thrown upon the general body of ratepayers?—I pay as a proprietor, and all the occupiers pay as occupiers.

1180. Have you ever asked the superior to release you?—I do not think it at all likely that he would, it never occurred to me. It is not a question merely with me and my superior, but it is a question which must affect many places in Scotland.

1181. But you see you come here suggesting that a bargain which you or your predecessor made should be broken by law. I want to know, have you ever asked the other party to that bargain whether he would release you from it?—Certainly not. You will excuse my saying that I, as succeeding my maternal grandfather and my father in my part of the village, have never enforced it.

1182. *You* may be generous; but I understand your complaint to be that as a vassal, the stipulation of your feu charter is enforced against you?—Well, I have always paid, because it appears to me that as the law stands at present it is a legal obligation.

1183. Have you ever asked your superior to release you from this?—No.

1184. Do you think it would not have been well to do that before you asked for legislation upon the subject?—No, because I consider that it is a public question and not a question between me and my superior.

1185. It is the construction of a legal bargain with you, or your predecessor, with your superior?—Yes.

1186. Do you propose that the vassal should be relieved of that and that it should be thrown upon the general public?—Yes.

1187. Why do you suggest that you should be relieved of the burden, and that it should be thrown upon the general public?—Because it is for sanitary purposes, and for sanitary purposes which are amply provided for by an adequate assessment.

1188. On somebody else as well as you?—On me and the occupiers.

1189. If you and your superior were agreed, I suppose there is nothing to prevent one of you releasing the bargain with the other?—No.

1190. What I want to know is this, if your superior holds to his bargain and you are to pay certain sums for sanitary interests, upon what ground do you ask us that you should be relieved of that?—Because there is no proper publication of the accounts, because there is no proper time to meet, and no proper notice of the time of election of members.

1191. In other words you do not think the stipulation is duly fulfilled in these particulars?—No.

1192. If the stipulation is not duly fulfilled in these particulars, have you ever asked it to be fulfilled?—I have asked the agent why it is that it is not advertised, and why the accounts are not published.

1193. And if it is not duly fulfilled, would the law courts not give you your remedy?—I think not.

1194. Why?—As I am informed, this body—the feuars' committee—are a body that can neither sue nor be sued.

1195. Not even as individuals?—I do not knew who they are; I have no means of knowing who they are.

1196. To be perfectly frank with you, we should naturally expect, when you ask us to recommend the alteration of the bargain between your superior and yourself, that we should see that there is good cause for that. Do you desire to say anything more on that subject; what kind of legislation would you propose?—It is principally, I suppose, for sanitary purposes that there is the power to levy this 2*d.* per foot. It says "any other improvement"—nobody knows what is done with it; possibly one would not be absolutely refused information, but the public generally does not know what is done with it.

1197. But as a feuar, have you any doubt that if you asked you would be shown the accounts or be told what was done with the money that

was

Chairman—continued.

was levied?—Verbally I should; I do not think I should get a copy of the accounts.

1198. Did not you think it worth while to try that before coming here?—I have again, Sir, to say that we are not a solitary instance of it, and I think it is a public question. I should prefer not to make it a question between me and my superior. I wish to lay the evidence before the Committee, and I have had it suggested to me that where an assessment is levied for such purposes as sanitary purposes, a payment of this sort is not justified.

1199. In what sense do you mean that it is a public question?—It is a public question so far that the proprietors of feus should not be burdened with a double payment.

1200. Have you any doubt that you got your feu cheaper in respect of that obligation?—I do not think I got it a bit cheaper.

1201. Was not that merely one of the considerations which entered into the complex bargain?—I think the consideration for putting that burden on me, and on others in a similar position, was that there was no proper sanitary authority.

1202. But would not you have been asked more feu duty if you did not pay it in the "front money"?—No, I do not think so.

1203. Then would you just allow me to ask you again, in what respect is that a public question?—The public question is that the public, who are a very large body of vassals, the public in places similarly situated, are paying twice for the same purpose, and they are paying unevenly. It is not a uniform payment. I have every reason to believe that there are many feus and long leases on the properties which have no "front money," there are others which have lapsed to the superior; I do not know whether "front money" is paid on them, but I do not think I can more clearly indicate the evil that arises than by saying that this money does not appear to be available for local improvements. Sitting on the Standing Joint Committee of our county, we had an application last year, or the year before, for a loan to the water district of Ardrishaig.

1204. Do you propose to give any consideration at all to the public, or to the superior, for being relieved from this bargain?—I do not think we ought to give any consideration; we are assessed for the whole necessary expense otherwise.

1205. Like other people?—Like other people, but I will show you that the money is not expended year by year. I am utterly ignorant as to what amount is collected in the two villages.

1206. I again suggest to you that if your grievance is that the money is not expended according to your contract, the courts are open to you to have the bargain fulfilled, are they not?—I do not wish to fight a question for the general public, when I consider it of sufficient importance to be dealt with by representations to you, Sir, and this Committee.

1207. Is not your proposal one adverse to the general public, inasmuch as you propose to shift on to the general public by assessment an obligation which you have undertaken by your contracts to fulfil by "front money"?—To what extent?

1208. The full extent of your grievance is the "front money"?—The extent of my grievance is that I am paying more than other people, and that the requirements of the sanitary authorities and local authorities generally have enormously increased, and we are enormously taxed for them.

1209. I would just wish to understand your view. Is it not correct that your proposal is not one in the interest of the general public, but adverse to the general public?—No, I do not consider it in that light. I should not consider it in that light; I think it is the general public interest that the expense of that sort of provision should be met by a general assessment as is at present done by law, half on the proprietor and half on the occupier. I consider that an equitable thing, and I think that all payments stipulated for, for sanitary purposes before, should cease.

1210. Without any consideration being given either to the public or to the creditor in the obligation?—Yes.

1211. Very well?—I was going to point out to you, as a proof that the money is not laid out in the interests of the public this fact: In the village of Ardrishaig there is a water district; the water supply was very insufficient, and they (the water district) got very much into debt, and it was only recently that they came for sanction for a loan to pay for the requisite expenditure, and I am aware that the feuars' committee at that time had in hand a sum of 200*l.* of money collected by "front money," yet they came to us for a loan; they were practically the same body.

1212. You think that they were not duly applying the money?—I think that is a proof that the money was not properly applied, that it was hoarded up.

1213. If they were wrong in that the courts would set them right?—I have some little experience of the courts, and I know this that a private individual has to pay very dearly for fighting a public question.

1214. What I do not at this moment see is how it is a public question in the sense of being in the interest of the public; it is the enforcement of an agreement between two persons, a superior and a vassal?—Yes.

1215. You want to be relieved of that?—I think all vassals should be relieved of such payment where there is a sanitary assessment.

1216. And do you propose to give either the public or the superior any consideration from this relief, or do you wish to have the relief for nothing?—I wish the relief to all of us for nothing, because we are all assessed for everything that is necessary for drainage or other sanitary purposes. We all pay evenly according to the value of our property.

1217. So do the people who have made no bargains to pay "front money"?—Well, there happen to be none.

1218. Is there anything else you desire to say about this matter?—I wish it to be noted that I find this dates back to the beginning of the century on my own property, where there are now

Chairman—continued.

now no feus; at that time there were such stipulations, but I think on every property where there is an assessment for a certain purpose these payments to the superiors should cease, and I also object to the present arrangement by which no notice of the meeting is circulated in the public papers, that no notice is given of the persons who are elected, and that the accounts are not published.

1219. Quite so. May I ask you this: In this matter do you represent the views of anybody but yourself, or are we to take you as a representative?—I was not asked to appear. I am aware that many think that it is an unnecessary impost, that the money is not applied as it should be. I could bring up instances, but I would rather not.

1220. I dare say the Committee would wish to know whether we are to take what you have said as spoken on behalf of a class of persons?—No.

1221. Or a number of persons, or merely as your individual view?—As my individual view, paying a very considerable sum as feu duty and "front money."

1222. Is there anything else you desire to say on the subject?—I think not. I think those are the points, first, that there should be notice given of the meeting.

1223. I think we have got those you mean, just the ones you have stated?—Yes.

1224. Yes, we quite understand?—I think that the accounts should be published, and that we should know what is done with the money; because it appears to me that it is not right for a body spending these sums without rendering an account to be in such a position that they have 200*l.* in hand, probably the amount of two years' income; for them to be in possession of that money when there is a crying evil, for which the inhabitants of that district are probably further assessed to provide, is not a proper state of things.

The *Solicitor General for Scotland.*

1225. As I understand you are strongly of opinion that the Legislature should interfere in this matter?—I do think so.

1226. To alter the relations of superior and vassal?—Yes.

1227. On the grounds you have stated, that that should be done without compensation; in this instance on account of the public good that is to emerge?—Yes.

1228. And you apply that to the case in which you are a vassal?—Yes.

1229. Have you any idea to present to the Committee as to applying that principle of legislative interference for the public good and without compensation to any other point in the relations of superior and vassal?—I am in the position of superior myself.

1230. Yes, I know. I was going to ask you a question, perhaps you will kindly give me an answer. Do you propose to apply your principle to any other point in the relation of superior and vassal except this 2*d.* a foot of "front money"?—I would apply it in any case where there was an assessment levied for the same purposes, in fact it was suggested to me the other day that there had been a decision given to that effect.

The *Solicitor General for Scotland*—continued.

1231. Your ruling principle, as I understand, is that the general good in a matter of that kind is the ground for the legislative interference?—Yes, there should not be a double assessment for the same purposes.

1232. Have you any views with regard to the Legislature interfering to compel the grant of feus for public purposes?—To compel the grant of feus?

1233. Yes?—No, certainly not.

1234. You are against that, are you?—I think that when a man owns property, the word "owner" means that he is to dispose of it as he likes.

1235. And that the principle as to legislative interference should not apply in that case?—Certainly not.

1236. Assuming that public buildings are required on any part of your property, you think the Legislature has no title to interpose between you and your wish upon that subject?—Certainly, for public purposes they should be at liberty to take land compulsorily the same way as a railway.

1237. And would you apply that to the residences of public officials?—If the buildings were to be the property of the county, yes; between the county and the owner of the property.

1238. Or for residential or business purposes?—Certainly not for residential or business purposes; that is a matter of bargain between man and man, that is not public purposes.

1239. Or for allotments?—Allotments?

1240. Yes?—I have not thought about the question.

1241. You have not thought about that. You are a superior, I suppose, on a pretty large scale, are you?—By "superior," you mean "owner"?

1242. Yes?—I do not grant feus except for public purposes. I have always granted feus for public purposes at a very low scale.

1243. If you do not care about answering the question, please do not do it, but I should like the Committee to have a general idea of the extent of your land, in acreage I mean?—Where?

1244. Anywhere in Scotland?—In Argyllshire I have about 4,000 acres.

1245. And do you apply that principle in granting feus throughout your estate?—Yes.

1246. Without any consideration whatever, except that it is for public purposes?—Except that it is for public purposes. By "public purposes" I include schools, and I include dwellings for mission houses, churches, and those sort of things, post offices; anything that is a public purpose.

1247. Assuming a man to be the Procurator Fiscal, occupying a public position, if he wanted to buy land to build a house on would you apply it to such a case?—Certainly I would.

1248. You would give land?—I would *not* give land for this reason; as was pointed out in the House of Commons, if I give a bit of land there is no security that his successor would get it.

1249. Quite so, because you have no security that it will always be the Procurator Fiscal that will

The *Solicitor General for Scotland*—continued.

will get it?—I can give you instances on my own property, if you do not mind my taking up your time. We have a large crofter population —some 10, 12 or 15 townships I believe. I cannot reckon them off at this moment. One thing I have to complain of is the fact that every township has one, two, or perhaps three, shepherds or cattle herds. A large proportion of the cotters (of whom I have 200 odd, and 380 odd crofters) that I find on my property appear to derive their title to their houses from the fact that some ancestor of theirs was reared on the township, the fact being that when one herd becomes incapacitated, or for some reason his services are not such as please the township, they dismiss him, and they build another house for the new one. I think that I could point out townships on my property where there are some four or five houses, the origin of which can be traced to that.

1250. That was not quite the point I asked you, but I am interested to hear it?—That is a question of succession.

1251. What I want to know is this, whether you are prepared to apply the principle of legislative interference without compensation and for the public good to any other single topic you can name except the 2*d.* a foot of "front money"?—If you will name a topic I will tell you.

1252. I have given you a very large range, allotments and so on, but you have no topic that occurs to you at this moment except the 2*d.* a foot?—No, that is a question of an assessment; that is the point, the point is that we are assessed otherwise for those purposes.

Sir *John Kinloch.*

1253. I understand this 2*d.* per foot of "front money" is for public purposes, public improvements?—For improvements, but principally for drainage and sanitary purposes, as I recollect the framing of the clause.

1254. For the benefit of the public in fact. Then you propose that the superior should be relieved of this public payment?—The vassal.

1255. The vassal should be relieved, and the superior of course get the benefit; he is to get this public money?—No; I propose that that payment shall cease and determine inasmuch as the vassals are assessed otherwise for those very purposes.

1256. Would it not be fair that this same 2*d.* a foot should go to the public purse for the public good instead of into the feuars' pockets?—No, because we are all assessed; we do not all pay this "front money."

1257. What sort of sum does it represent in the two villages you have mentioned?—I cannot tell you.

1258. Is it a considerable sum?—It must be a considerable sum when they can lay by 200*l.* in one of the villages and not spend it. If I may be allowed to take up your time so much, I understand the basis of an assessment to be the equal distribution of a burden according to the value of property for certain purposes, the equal distribution of the burden of carrying out certain purposes for the public good by laying a rate on

Sir *John Kinloch*—continued.

occupiers and owners, or on occupiers alone, for those purposes. That is what I understand by an assessment, and I understand that to be the recognised way of meeting sanitary and other requirements; and I believe that this provision of "front money" is entirely unnecessary and not required; but supposing it to be merged in the feu duty and the vassal not relieved at all, I think that there should be an account rendered of how it is expended and the amount collected, and that notices of these meetings should be duly and properly advertised. I hold the provision for the collection of this money to be utterly unnecessary under the circumstances.

Dr. *MacGregor.*

1259. I understand that your principal object here to-day is, as a vassal, to complain of your superior?—No, Sir, certainly not.

1260. Well, what is it?—My object is to represent the case on public grounds. I am both vassal and superior. I find a similar provision generally in some of my old feu charters by my maternal grandfather.

1261. So you told us?—I say I think the time has passed when such payments should be continued.

1262. But am I not right in assuming that you complain as a vassal that you are assessed for "front money," of which you now wish to be relieved in the interests of the public; is not that your position?—Yes, to that extent.

1263. And you wish legislation passed so as to enable you to be relieved of this, what you call ancient or extra assessment in the interests of the public?—Yes.

1264. You also say that in being relieved of that it would be to the advantage of the public, do not you?—Yes.

1265. Can you show us how that could possibly be?—Because the burden would be more properly and equitably distributed on those who require the improvements.

1266. But if you were relieved of these assessments to which you have agreed by document, would your neighbours not have to pay that amount in excess of what they are now called upon to pay?—We should all have to pay, but we should have to pay it *pro ratâ*, according to the value of our property.

1267. But you would be relieved and they would be mulcted in extra charges?—Not only I but some hundreds of others would be relieved.

1268. Quite so?—The greater portion of the inhabitants would be relieved.

1269. Still the public generally would have to pay more and individuals less; would not that be the result?—No, I should say not. I should say that to owners of properties it would make very little difference at all.

1270. But it would be a difference; the difference would be getting it off your shoulders on to someone else's shoulders, would not it?—Of course it would; that is a matter of arithmetic.

1271. Is it not a matter of fact if you got rid of this assessment would not someone else have to pay it?—Yes, granted. I say the principle of assessment is that for public purposes money

Dr. *MacGregor*—continued.

should be collected according to the value of the property.

1272. But you complain that you are now called upon to pay more than your share?—Yes.

1273. And you wish legislation passed to get rid of this charge, and to put it upon the public generally; is not that your position?—Yes.

1274. How would that be to the public advantage?—It would be to the advantage of a certain section of the public, I grant you, but a very large section of the public, the owners of probably nine-tenths of the houses in these villages. Perhaps you will excuse my noting a point that I do not think I mentioned before. The owner who thus has an interest in the expenditure of this money is very often non-resident, and he has no voice in the election of the people.

1275. Quite so; but still in other ways the interest of the few in this case would be the disadvantage of the many, would it not?—A certain portion of the "many."

1276. How can you call upon us as a Committee, then, to recommend legislation that would be a privilege to the few at the expense of the many?—I am very loth to repeat what I have said before, but it is this: Because I consider that for certain public improvements the burthen should be laid equitably *pro rata* on all who benefit by it.

1277. You have said that you own 4,000 acres in Argyllshire. May I ask how many you own in Inverness-shire?—I cannot tell you, though I had it not two hours ago.

1278. Give us roughly the acreage in Inverness-shire, if you have no objection. Of course, if you have, I will not press it. What is the extent of North Uist, for instance?—Something over 70,000 acres.

1279. I presume you have no objection to my putting a few questions to you in relation to your property in North Uist?—Anything you please, bearing on this question.

1280. Of feuing matters?—Yes, of feuing.

1281. Of course, at Lochgilphead we treat you as a vassal smarting under rules of the superior; now we are going to treat you as a superior in North Uist?—No, sir, you misunderstand me altogether. I happen to be a vassal at Lochgilphead; I have also been a superior, and my predecessors; I treat it as a public question.

1282. Let me ask you as to feuing in North Uist. The Solicitor-General has already in general terms referred to your feuing ground, to public officials, and your refusal to do so. May I ask why you refuse land on reasonable terms for the use of public officials?—Because they ask a feu as a private individual, and not as a public official, and because they are mortal—all officials are mortal, like other people; and supposing a feu were granted to the present holder of an office, and he were to resign or decease, there is no security that I should not be asked for another feu.

1283. But if you are paid a fair rent, what does it matter, even if you are asked for another feu out of 70,000 acres and a fair rent is offered to you, as I know has been in this instance. Why should you, as superior, refuse to grant that public accommodation?—I do not agree to the "fair rent" at all.

1284. Well, sir, you admitted just now that you were ready to give feus to county council officials; did I understand you to say that?—No, I did not; most distinctly I am not willing.

1285. I understood that, in reply to the Solicitor-General you said you had no objection to give ground for residences to county officials?—No.

1286. Are you not so?—No, I am not at all.

1287. For county officials of some kind?—No; I will give a feu to the county council.

1288. That is exactly what I mean; you mean for their officials' residence there?—Yes.

1289. That is exactly what I asked you; you are willing to give feus?—Provided it is an official residence, that is to say, that it is to the county council that I feu the ground.

1290. What do you mean by an "official residence;" would you mention an instance of a county council official requiring an official residence there?—I am not sure that they would require any official residence there any more than in any other place.

1291. It is no concession, then; would you consider a policeman's house a county council official residence?—I have feued ground to the Police Committee for a station-house and to the county for a court-house.

1292. And you would not hesitate to do that with regard to any official in connection with the county council, I presume; suppose they wished an inspector to live there to watch the fishings or anything else of that sort, would you give feuings at a fair rent?—I have feued to the Board of Trade, or rather not to the "Board of Trade," but to the Northern Lights.

1293. Would you, in that case, give land to the county council for the residence of an inspector, that they wished to inspect fishings or fisheries or any other such public work?—Yes.

1294. You would?—Yes.

1295. Then, sir, why do you make the distinction between a county council official and the Procurator Fiscal, who is a Crown officer?—Because the Procurator Fiscal asked me for the feu; it was not the county council who asked me for the feu.

1296. The county council have nothing to do with him, he is a Crown official. Why do you refuse the Crown what you would not refuse the county council?—I offered to give land to the Crown.

1297. For this Procurator Fiscal?—Yes, for that Procurator Fiscal.

1298. But did not you refuse to give him a feu?—I refused to give it to him, and I will refuse again, if necessary.

1299. May I ask why?—Because I do not think that I am bound at all to give a feu to a man who happens to be a public official.

1300. Do not you think that a man who owns 70,000 acres owes a certain debt to the public and to his country; and if the public, as such, offer a fair rent for as much land as they can build

Dr. *MacGregor*—continued.

build a dwelling house upon for a public official, have they not a right to the land for that dwelling house and to expect that the landlord should yield to a certain extent?—They may expect that I will do what I offer to do, that is, to give a feu to the Government for a residence for the Procurator Fiscal.

1301. You agreed to do that?—I agreed to do that; all I objected to do was to give it to him as an individual, because, as was pointed out by the late Lord Advocate or the Solicitor General in the House, in the last Government, there was no security that it would revert to his successor.

1302. As I understand, what you say now is this: that you are willing to give a feu to the Crown for the Procurator Fiscal?—Yes.

1303. But not to himself as an individual?—Yes.

1304. Now as regards the cotter and crofter class in North Uist, may I ask whether any of them, so far as you know, desire a little more land to make a living out of on your estate, and whether they have not offered for that a fair and reasonable rent?—I am perfectly certain that there is a very great number of them would like more land, and I know that I have had applications for more land.

1305. And with an offer of fair rent for that land?—They have said they would give any fair rent.

1306. May I ask, as their friend at a distance, why you, as proprietor, refuse a fair rent for land of that description there?—In the first place I have got very little left me.

1307. Of what?—Of land.

1308. I understood you to say you had 70,000 acres?—Yes, but they are mostly crofter farms, which are provided for by legislation.

1309. You spoke of the cotter class having built houses belonging to shepherds; shepherds, looking after flocks, built houses, and then claim the title to them. Do you really grudge these people the huts they build themselves by their own labour at their own expense?—I do.

1310. On a vast wild heath such as a great deal of that is?—I do.

1311. You grudge them that?—I do. Perhaps you will allow me to give my reasons?

1312. You are willing to explain why you refuse these poor people the privilege of building their own houses on this land; why is it?—Because the population is very much in excess at present of the means of support in the country; there is a very large proportion of my property under crofters already. I believe there is no cause so clearly made out in the opinion of those who are acquainted with the country, for the poverty in the country, as that of these cotters; on my property there is not any very great amount; the people are very good neighbours to one another, but there is no greater burden on the crofters than the existence of these cotters; they pay me no rent.

1313. Is not that because they have no land at all with which to make a living, is not that why the population is in excess of the means of existence; it is not that because they have no land to till while it is lying waste all round them?—I beg your pardon, it is not lying waste all round them; the cotters are almost entirely situated on the crofter townships.

1314. Because they cannot get a situation anywhere else, is it not; is it not because they have been simply evicted from other places?—No; they were not evicted from other places.

1315. Put it in any way you like; is it not because you refuse to give them land elsewhere to till or to build on?—Because I have got no land that is suitable for them except the tacksmen's farms. I do not consider, unless you give a man a certain amount of land with his house that he is able to maintain himself. The cotters are in existence as I found them in the year 1856; there may have been a few cases increased since then, but never with my sanction.

1316. Speaking generally, are the crofters on your estate fairly comfortably off now?—Yes.

1317. What is the average land in their possession per croft?—I cannot tell you; I should think fully one-half; I did not know I was to be cross-examined on the circumstances of my property.

1318. If you gave these cotters the same amount of land as the crofters, then they would be, presumably, comfortably off, would not they?—I think that one-half of my arable land is under crofter farms; there are 380 crofters, odd, and there are over 200 cotters.

1319. May I ask you what rent per acre these crofters pay on an average?—No.

1320. You cannot say?—I cannot tell you.

1321. Do they pay more than the ordinary tacksman pays as his rent?—I could not tell you, because the Crofter Commission have been since the year 1886 fixing my rents, and we have not approached the end yet, quite; and until that is done I cannot tell you.

1322. Were the rents reduced by the Commission there?—21½ per cent.

1323. One question more I will ask you, and it is the last: Why should not you give these cotter or crofter class the land on the same terms as you are giving it to the tacksmen or a large farmer?—I do not believe it would be a benefit to them; it would enable them to exist, and I will tell you, sir, how it would enable them to exist: It is only last week I got an application from a man whose brother owns a croft; he is in Glasgow, and he is a seaman, and he wrote to me to ask leave to build a house, and he was kind enough to indicate the township which he would prefer, and he said he would not live there, but his wife and family would do so. Well, I regretted that I could not see my way to do so. I will give my reason for not seeing my way to do so: I have a crofter on Loch Eport side, two years ago I went to visit it; I think there were three families on that croft, and the rent was certainly not more than five-and-twenty shillings.

1324. Per acre?—There were about thirteen or fourteen there.

1325. Twenty-five shillings per croft or per acre, which do you mean?—Altogether.

1326. What was the extent of it?—I cannot tell you that, you will find it in the Blue Book, I could give you the name; but I found there that one son of a widow there was working in Glasgow,

Dr. *MacGregor*—continued.

Glasgow, permanently you may say, the whole of his family were living with his mother, and there were the families of two other sons on the croft, that is to say, there were three families besides the old lady of the crofter living on that croft of five-and-twenty shillings; and it is very simple to explain why crofters, in these days of daily communication with the south, wish to be allowed to build a house in the Long Island. It simply amounts to this—they get fuel, they get teaching, they get everything except clothes provided for them for a payment of say, 1*l.*; supposing it was 1*l.* for the site of a house, supposing I gave them no land with it, it would be 1*l.* for the site of a house, that is what I suppose I should be expected to give it for. They would then get a house for which they had paid nothing for the materials, for which they would be entitled to compensation when they chose to leave it, and they would get free fuel for the payment of 1*l.*, which is about what they would pay for one room in Glasgow for a fortnight. That is the reason why I have a great number of applications for houses. I hold that I should be very wrong if I granted them when I see what use is made of the land. As to an artificer, or anything of that sort, or any person who will add to the benefit of the community, I should be quite ready to entertain the idea; but I cannot undertake to give houses to people if they are to go away for work and probably spend a large amount of their wages away, and in case of their death leave their children and widows on the parish; we have had numerous instances of that.

Mr. *Renshaw.*

1327. There is one question I want to ask you, that is whether you are aware of any similar arrangement having been made in respect of any other question between vassal and superior by which the vassal is held bound under feu charter to make a payment similar in character to the payment of this "front money," for *subjects* which are now dealt with by assessment and provided for by assessment; is there any other?—I do not know of any.

1328. In the feu charters you have granted yourself, for instance, have you ever made any reservation prior to 1872, or has your estate made any reservation prior to that date, in respect of a contribution on the part of the vassal towards the money which used to be paid by a heritor for the maintenance and up-keep of the schools?—You mean whether there was any contribution by the vassal to the up-keep of the school?

1329. Yes, in the charter?—No, as far as I am acquainted with feu charters generally, the superiors always relieve that assessment.

1330. I think it is the fact, however, that a somewhat analogous case to this which you have brought before us in regard to "front money" does occur in certain districts with regard to school money; and that in some cases the feudal superior used to ask the vassal to make a contribution in respect to the money which, up to that time, had been paid by the heritor, towards education?—I think I have heard of such cases.

Mr. *Renshaw*—continued.

1331. Which would be a strictly analogous case to the payment you complain of, would it not?—It was suggested to me the other day that there had been a case where an assessment had been laid on for the purposes provided for at present.

1332. Are you aware of any case or has any case come before you, of that kind; that is to say where a payment of that kind has ceased since the passing of the School Act of 1872?—No, I do not think there were any in our neighbourhood. I am, of course, aware of the fact that in some parts feuars are held liable to ecclesiastical burthens.

Mr. *Stephen Williamson.*

1333. What is the population about North Uist?—4,187 by the census of 1891.

1334. Are they engaged in herring fishing?—No, lobster fishing.

1335. Not herring fishing?—No; they go on wages, the young men, not the crofters.

1336. They go on wages to the east coast?—They go on wages to the east coast and to the Shetland fishings.

1337. And bring back a good deal of money with them?—I heard it said that one season they brought back 16*l.* from the Shetland fishing.

1338. Out of which the proprietor gets his rent, of course?—They are not crofters, these boys.

1339. They reside on the island, and they bring back money?—They bring back money.

1340. Is it a desirable climate: is it a nice place for residence, and a nice harbour?—There are a few harbours.

1341. Would it be a good thing to encourage the fishing industry by granting feus?—Encourage the fishing feuar?

1342. Yes?—No; that would involve owning their own boats, which I consider does not work well.

1343. You want to oppress them, and make them slaves; why not encourage them by giving them facilities?—I do not think it would be for their benefit for them to own boats; I consider the present system of the young men going on wages much better.

1344. Then you would not allow these young men to marry wives living in Glasgow to come and settle down there to prosecute the industry; you compel them to stay away?—I do not compel them to stay away. I am not prepared to provide for the increase of the population.

1345. Is not that their affair, if they can make the sea productive and bring in fish?—But, unfortunately, they cannot.

1346. And till the soil?—Unfortunately they cannot.

1347. Is there a telegraph to North Uist?—Yes, and there has been.

1348. For how long?—Since the first year the Government took over the telegraphs.

1349. Did you pay for it?—I guaranteed an office.

1350. Did

Mr. *Stephen Williamson*—continued.

1350. Did you pay for the cost of the telegraph?—No.

1351. Then you expect the Government to do a good deal for you?—I do not.

Mr. *Dalziel.*

1352. Was the telegraph successful?—Lady Gordon Cathcart contributed a certain sum.

1353. That was a guarantee?—That was a guarantee. I had nothing to do with it, and was never asked about the one to Loch Maddy. It was on the ground of the seat of the sheriff's court being there that it was taken there, I believe.

Mr. *Stephen Williamson.*

1354. You refused to give a site to the procurator fiscal to build a house for himself on his own land?—Yes.

1355. On the ground that you had no certainty as to who would succeed him?—No, I did not refuse on those grounds. Whoever answered the question in the House pointed out that it would not have the effect of providing security.

1356. Then please explain again why you did not give him the house?—Because he had been a tenant of mine and did not pay up. He had been a tenant of mine for his residence and two cottages; he disputed the amount due and would not pay it; his lease came to an end and I did not renew it.

1357. You would not grant him a feu, in fact?—I would not grant him a new lease.

1358. Would not you have had the security of the house, if he had built a nice house, for payment?—Possibly I should.

1359. Then why depopulate the place and keep decent men from coming there; you discourage settlement there?—I do not discourage settlement at all. This is an individual question entirely. The man had a house on a reasonable rent.

1360. It was personal pique, in fact?—No, certainly it was not personal pique, except that every man has to take care of his own pocket.

1361. I gather, then, that you represent the type of men (I hope there are not very many), who discourage industry?—I must ask whether that is a fair suggestion.

1362. Men who discourage the development of an industry such as that of fishing, and prevent people getting land for residences. Here is this Glasgow sailor, belonging to the island, for example. This sailor, who had his family in Glasgow, was a native of North Uist?—Yes.

1363. And he had a crofter brother there?—Yes.

1364. And his family and relations were there?—Yes.

1365. His wife also belonged to the island of North Uist?—That I cannot tell you.

Mr. *Stephen Williamson*—continued.

1366. At any rate his family were all there?—No, they are not there; they are in Glasgow.

1367. But you told me he had a brother, a crofter, and he wanted to come and settle beside him?—Yes.

1368. He had one brother, at any rate, there. Now, is it not a natural thing that these men, who belong to the island, should seek to come to the island where their friends live, and settle down; is it not a very natural and reasonable thing?—Very natural, extremely natural.

1369. Would it not be an unreasonable thing on your part, as proprietor, to prevent that?—No, I do not think it would. I feel bound to repudiate altogether the idea that I am not ready to encourage every and any industry in the island. You do not encourage that in the way you suggest.

1370. On your own autocratic terms?—On the terms that I think better. I object entirely to the word "autocratic," it is not a fair word at all. I have a fair discretion, and, as an owner of property, I am entitled to exercise that discretion, and although you, and one or two others (I do not know who I am speaking to), or anyone else, may think that my discretion is not a fair discretion, I am quite sure there is great number of others who think it is a fair discretion; and I am prepared to argue the point with anybody.

Chairman.

1371. You told us that you were the superior in certain feu grants which contain stipulations for the payment of this 2*d.* of "front money"?—Yes.

1372. Of course it would be in your power to release that payment to your vassals if you chose, I suppose, and if you did so, that would end the question as regards these cases?—Yes.

1373. Have you ever offered to release this payment to your vassals?—I have no feus; I have only two long leases.

1374. I thought you said there were feus on your property?—I had feus; I bought them up.

1375. The same thing would hold, I suppose, in a stipulation for payment of the "front money" in all long leases in which you are lessor?—Yes.

1376. Then, as lessor, you could release your lessee from this payment if you chose, I suppose?—Yes.

1377. Have you ever offered to do so?—I should be quite ready to do so if others did so.

1378. I mean you do not require to come to the Legislature for help in these cases, do you?—No, but I should be doing what the Legislature, in my humble opinion, should do.

Mr. Thomas Simpson, called in; and Examined.

The *Solicitor General for Scotland.*

1379. What is your age?—Sixty last birthday.

1380. And what is your occupation?—I am a shoemaker.

1381. A working shoemaker?—Yes.

1382. In the village of New Castleton?—Yes.

1383. Have you lived in New Castleton all your days?—No, about 55 years. I was born within four miles of it.

1384. And you are very familiar with the villagers and their way of living and the occupation of their land?—Oh, certainly I am.

1385. I believe you are also in the position of being a Justice of the Peace for the County of Roxburgh?—Yes.

1386. I think you wish to make an explanation with regard to the present condition of the houses in the village?—Yes.

1387. Now we want that evidence from yourself at first hand?—Well, conditions were issued by his Grace the Duke of Buccleuch in September, 1893. The terms on which they were offered to the inhabitants as perpetual feus were these:—A bonus to be paid of three years' rental on the valuation roll. Say that a house was rented at 4*l.* per annum, well they could have that by paying the bonus of 12*l.* The feu duty at the same time was to be increased to from 5*l.* to 10*l.* an acre according to the position in which it was placed in the village. The average runs at about 7*l.* 10*s.* per acre; the original feu duty was 1*l.* 16*s.* per acre. The size of a feu consists of about the eighth part of an acre. He could purchase the house for 12*l.*, but then the houses are in a dilapidated condition.

1388. That is what I wanted to ask you about. Will you tell the Committee about that; the houses, you say, are in a dilapidated condition?—Yes.

1389. Does that apply to a considerable number of the houses in Newcastleton?—To a very great number of them, the great bulk of them. I would think two-thirds of them.

1390. Now, when you say "dilapidated," just explain to the Committee, please, what you mean?—What I mean is this: that if the furniture was taken out of the house and the paper taken from the walls, if they were allowed to stand without being kept up by the tenants, they would not stand long.

1391. They are near to immediate decay?—They are in immediate decay, and they will not meet the requirements of the county council when they come down upon the village.

1392. As a local authority?—As a local authority.

1393. Do you account for that by reason of the expiry of the leases and the people having no security?—It is to be explained partly on that condition, because the leases were nearly expiring; and they had no understanding as to what would be the upshot at the end of the lease.

1394. As that has been explained to us, we need not go into detail. The 99 years' leases had expired just about that time?—Some of the houses have four or five years to run yet, and some of them expired two years ago.

The *Solicitor General for Scotland*—continued.

1395. Just about the period of expiry?—Yes.

1396. We do not go into that. Tell me about the conditions in September, 1893; these were followed by subsequent conditions from the Duke of Buccleuch, were not they?—Yes.

1397. I understand that there was an agitation in the village in regard to these conditions?—There was a very great agitation.

1398. And you were consulted by the feuars, I believe, on the subject?—Yes, very often.

1399. You yourself, I do not suppose, are a feuar, are you?—No, I am not a feuar.

1400. Whose house do you occupy?—I occupy a house belonging to William Ogilvie.

1401. Is he a feuar?—Yes.

1402. And has he land along with his feu?—Yes, he has land.

1403. I think it has been suggested that this agitation was of a political character; is there any truth in that?—There is not the slightest foundation for it, it is a slander on the village to say so. I can assure you that the parties who were appointed to give evidence before this Committee (if ever the question could be got to a hearing before the Committee, that is, the Reverend Mr. Smith, Mr. Hall, and Mr. Houghton) were appointed by Tories; that is a subject that was unknown to themselves, and that shows you that there was no political agitation whatever.

1404. I believe none of them are Liberals themselves, are they?—I do not know what their politics are, but I know that they are Tories who appointed them.

1405. Irrespective of party this agitation proceeded?—Yes.

1406. In order to get better terms for the villagers?—Irrespective of party politics altogether, there were no politics in it. I deny that most emphatically.

1407. There having been this agitation, I believe the alternative conditions were issued in the beginning of March, 1894?—Yes.

1408. Could you tell me generally what these were? That was the offer of a renewal of the leases for 35 years on the old terms, was it not?—Yes, that is the subject of the circular. There is a copy of the circular here if the Committee have not seen it.

1409. Will you hand that in also, please?—Yes. (*The document was handed in.*)

1410. Are the villagers satisfied with this offer, and if not, why not?—They are not really satisfied, they were very thankful for the offer in so far that it was staving off the evil day. It was looking better than the former one, but there is no fixity of tenure for the land, and more than that the Duke's chamberlain is imposing upon those who have applied for this new extension of 35 years the penalty of making these roads which

The *Solicitor General for Scotland*—continued.

which were stipulated for in the first conditions, and that is a very great grievance to the village.

1411. That is a great hardship as the villagers consider?—Most assuredly; because they are called upon to pay a rent for the land on which the road is made, to make and maintain the road, and yet the superior has power to throw it open to the public.

1412. That is one point. Now, with regard to the 35 years' leases, will you tell me how, in your judgment, that bears upon the erection or repair of buildings?—Well, it bears very much upon the repair of buildings, because a great deal of the houses you cannot repair, they will require rebuilding. They were built at first simply of stones from the river, and you cannot begin to repair many of them, they require to be rebuilt from the foundation. A person can scarcely rebuild a house on a 35 years understanding, it is too short a lease, and without any fixity of tenure, for the land in connection with it.

1413. Confine yourself in the first place to the erection of the houses. I will come to the land afterwards. In the opinion of the villagers and yourself there would not be sufficient security to induce tenants to erect substantial dwellings if they had to give up their right at the end of the 35 years?—Certainly not.

1414. And do you think that that would deter the re-erection of houses?—Certainly it would very much deter it.

1415. The next point I want is this: Am I right in saying that the terms offered in March, 1894, imported the terms and conditions of the November offer; I see it is so stated, to renew the lease of the holding for 35 years on the same terms and conditions as before?—Yes.

1416. Now was one of those conditions that about the roads you have mentioned?—Yes, one of those conditions is that about the roads I have mentioned specified in the September circular.

1417. Tell me next about the question of the land along with the houses. Am I right in supposing that the majority of these houses were built by persons who took land in the vicinity from the Duke of Buccleuch on a lease?—The houses were all built by parties, and for every house that was built they were promised that they should receive land.

1418. And speaking generally has that been the state of the occupation of the villagers; that they have had, besides their lands with the houses upon them, the occupancy also of land in the vicinity; they have had the two things generally going together, have not they?—Certainly, yes.

1419. Do you think the village could exist at all unless that state of matters was continued, namely, that there should be land along with each cottage?—It is impossible that the village could exist if the land was really taken away from it, because the people would have to clear out.

1420. May I ask you this? There is no mode of livelihood, is there, in the village or the neighbourhood except by the cultivation of just the fields that they have hitherto had?—There are no public works, and there is scarcely any labour to be had now on the neighbouring farms.

The *Solicitor General for Scotland*—continued.

1421. They are all too remote, are they, or they are all under sheep?—In my young days I have seen 14 to 16 going out every morning in summer, going away to work on the surrounding farms. In those days there was a goodly number employed, but our farmers have laid out all the land to grazing sheep, consequently there is no labour whatever on the surrounding farms.

1422. Does that make the need of tillage on their own land all the greater?—Certainly it does.

1423. You said that there was no manufacture of any kind in the place; is there any restriction against that?—Certainly there are restrictions in these last conditions, and when parties formerly applied for powers from his Grace over forty years ago, they were denied the liberty to erect a factory there, though there is splendid water power.

1424. And accordingly from that time till now there has never been any factory of any kind?—Oh, never.

1425. You have excellent water power, I believe, running through the village?—Yes.

1426. There is another point that I think you want to make a statement about, namely, as to the reclamation of the land?—Yes, I have a map of the fields here that I will show to you.

1427. You have the map of the farms here marked, I believe, on the Ordnance Survey?—Yes.

1428. The question you want to address yourself to, and do it briefly please, is this: Has that land been improved by the tenants and their predecessors?—Yes, most certainly.

1429. Between "A." and "B." in pencil on the Ordnance Survey, these fields that I have marked between "A." and "B.," tell me what they were 50 years ago?—They were moss-hill, land growing heather and peat.

1430. What is their condition now?—They are good meadow land.

1431. Good meadow land cultivated every year?—Every year. There is one field here, that is it (*pointing to the plan*), the owner of which, having got it many years ago, his son, who is still living——

1432. Nicol?—Nicol went out to see if he could find a blade of grass in the whole field, and the only part on which he could find a tuft of grass was at this south-east corner, the other was hard bent and cattacks.

1433. All that has now been reclaimed and is cultivable land, and is cultivated every year by the villagers; is that so?—Yes it is.

1434. We do not get this plan on the Notes, so I will put it in language for you: South-east of the village there is a considerable stretch of land which was formerly moss and which has been reclaimed by the crofters?—Yes.

1435. And which is cultivated from year to year by the villagers?—Yes.

1436. Limed, manured, and so on?—Yes.

1437. Are you aware, with reference to that, whether the rents of those fields have been raised upon these villagers?—Yes; some of them have been raised considerably.

1438. Speaking generally, to what extent, in what proportion have they been raised; have they been doubled?—There are two fields there;

The *Solicitor General for Scotland*—continued.

when that land was taken from the farm and thrown into the village and was given to one individual he had occasion to sell one of the houses; the other was improved by himself and his successors in the family, and when the valuer came round to value the land, the one field was increased in rent three-fold, and the other was left at its usual value.

1439. That valuation that you refer to was the valuation by a Mr. Asquith in the year 1857, I think?—It was somewhere about that date; I could not just exactly give the dates.

1440. May I ask you this. What is the feeling of the villagers with regard to the land and the house being close together?—Oh, the great feeling in the village is that the land be retained and get fixity of the tenure of the land along with the house.

1441. And that no other solution will enable the village to exist?—No other.

1442. Then what is the extent of land which the villagers desire, or would require, rather?—Well, I do not know. Where a man and his family have to live upon the land, where they have nothing else to live upon, I mean, they would require a larger quantity than a man that has a small business and wants the land merely by way of assistance; but to talk about what would maintain a family yonder, I would think he would require about 10 acres to farm.

1443. Ten acres of land along with the cottage?—Yes.

1444. And if such a solution as that could be found, either by way of offer or by way of legislative interference, would these cottage sites and plots of 10 acres be rapidly taken up?—I believe they would be very rapidly taken up.

1445. Do you think the village would thrive and the people be able to make a decent living in that way contentedly?—Certainly, much better than they do at present.

1446. The houses I think that you have referred to have each of them small plots of garden ground attached, have not they?—Yes, they have.

1447. Extending to what?—The house steading and the garden is about the eighth of an acre.

1448. Then the distance from the village to the fields that you have referred to is how much?—Well, there are some of them quite near, and there are others at a greater distance; there are some of them a long way off, over a mile away.

1449. But there is no complaint on that score?—No; there is a little complaint, but then these are things that cannot be avoided; we cannot get every field lying close to the village.

1450. Are you aware of cases in which the land has been taken from some of the houses, and never been restored?—Yes.

1451. And what has happened to the house in those cases?—What has happened with them?

1452. Yes?—Well, one of the houses has got into a dilapidated condition; the others are maintained in a very good condition as yet.

1453. Is that the solution that the villagers point to through you?—Yes, more land.

1454. Having plots of land, up to about 10 acres, with fixity of tenure both for that and for

The *Solicitor General for Scotland*—continued.

the cottage site?—Yes, at a fair and reasonable rent.

1455. And you think that that would be very satisfactory?—It would be a great boon; it would be a great boon to the village.

1456. Are you also of opinion that the restriction against industrial occupation of the land by factories or the like, should be removed?—Yes, I think it ought to be removed.

1457. If it were removed, with the water power there, and the railway communication, have you any doubt that that village would become very prosperous?—There might be industries begun if there were liberties for such.

Dr. *MacGregor.*

1458. You told the Solicitor General you have known the village of New Castleton well for 50 years or more?—Yes.

1459. You remember that some 50 years ago the land which is now cultivated by the villagers was bog heath?—Yes.

1460. In which peat was wont to be cast?—Yes.

1461. That you know of your own knowledge?—I do; I know it.

1462. Then when Mr. Yorstoun the factor told me that it never was heath land, or ordinary mountain-side land, as we call it, he must have been mistaken?—Certainly he must, because I challenge the Committee to come and survey the boundary outside on the neighbouring farms.

1463. In other words the land was cultivated by the people; that is, it was reclaimed by the people from its natural state?—Yes, it was.

1464. You know that to be the fact?—I know that to be the fact; and allow me, Dr. MacGregor, if you please, I can tell you that under my own observation some of the gardens in the village have been reclaimed. I know gardens that were termed gravel pits in my young days, and got to ice in winter, and, as boys, we used to slide where the water stood. These had soil wheeled and carted on to them, until they are now good fertile gardens.

1465. But when I put this question to the factor: "As I understand it from previous witnesses, this land has been reclaimed by the people themselves practically from the heath, or the bog, as it is commonly called. Is that so?" The factor replied: "No, sir." Was he mistaken in saying that?—He must have been mistaken. If Mr. Yorstoun had said the land had always been fairly good, in his experience, I would have agreed.

1466. I asked also this question of Mr. Yorstoun: "Did not those people, speaking generally, reclaim their own land from its original state," he said: "I will not admit the word 'reclaimed.' I believe that a large portion of that land never needed reclaiming; it was natural meadow land." Now is that the case; was it "natural meadow land" when the people got it?—It is nonsense.

1467–8. It is nonsense to say so?—Quite nonsense.

1469. Then I ask another question of the same witness: "So far as your knowledge goes of that estate, was the land now in the possession of those villagers not mountain side, or not arable land

Dr *MacGregor*—continued.

land, when they got possession of it? (*A.*) I have said, sir, that it was 'holm land'; that is not mountain land." Was it holm land when they got possession of it?—There is very little holm land about the village.

1470. Another question I asked him was this: "I want to know, from your experience and knowledge of the district, whether this was arable land or not previous to the period at which those people got possession of it?" "Well, sir" (he replies), "you are asking what no practical man in his senses will give an answer to." Would you, as a practical man, say whether this land was or was not arable land when the people got possession of it; that is another way of putting the same question; it was not arable land, was it, when they got possession of it?—There were but very few acres of it when the village first got possession of it.

1471. It was wet mountain, peat moss, in fact?—It was mountain land, a great quantity of it; and allow me to say that the man that I served my time with I have often heard say that behind our village, that is, the north-west side of the village where the old park farmhouse stood, he could scarcely have come up that way dry-shod.

1472. Are you able to tell us the average rent that is being paid just now for the land by the villagers?—Well, I do not know.

1473. Is it about 10*s.* an acre?—It would run somewhere thereabouts; there is some of it runs as high as 36*s.* an acre, some of that holm land; then there is some of it, where it lies further out-bye, and not in such a good position for cultivation, that is cheaper.

1474. You believe the average is about 16*s.*?—Yes.

1475. Have you any idea as to the rent paid by the neighbouring farmer?—Yes, 4*s.* 4*d.*, I think.

1476. Four shillings and fourpence an acre?—Yes, the farm of Raan is 2*s.* an acre; but there is a peculiar understanding about that farm, I understand. In the way I make it out, according to their acreage, it will run perhaps under 2*s.* an acre, but then I understand that the agreement is that 1,000 acres is struck off altogether before they begin to count the rent; that applies to that out-bye moorland land.

1477. Then can you account for the landlord charging so much higher rent to the villagers for the same land compared with that which he charges to the farmer?—Oh, no, I cannot account for that.

1478. And the villagers have no fixity of tenure?—None whatever.

1479. And in offering the houses for 35 years on the same terms, I understand that means at the old rental?—I understand so.

1480. Without bonus at all?—Without bonus at all, I understand.

1481. He has dropped the bonus now?—He has dropped the bonus for these 35 years.

1482. But does he compel the tenants to keep the houses in good repair during these 35 years?—Yes, certainly.

1483. But you tell us that the houses are in a state of dilapidation and decay?—Yes, they are.

Dr. *MacGregor*—continued.

1484. So that it is impossible to repair them?—The most of them it is impossible to repair; it comes to rebuilding.

1485. Can you state under what conditions he expects the tenants to keep these houses in good repair for five-and-thirty years?—I cannot state that, how he expects it.

1486. But do you think it is impossible to do so?—It does not consist with reason, I think.

1487. And for the land, you told us, there is an increase of rent being asked, I think, of 5*l.* to 10*l.* per acre?—That is in the feu duty.

1488. While the rents are being lowered on the neighbouring farms, it is being increased to these tenants; is that so?—Yes, in regard to feu duty, it is increased. We have no land for feuing purposes worth more than its agricultural value in the village of New Castleton; its fair agricultural value is a high enough rent.

1489. You know personally the witnesses we have had here before from New Castleton?—Yes.

1490. The Reverend Mr. Smith?—Yes.

1491. How was it he came to come here?—Because he was appointed by a party that met to see what was to be done, and they had some hopes that the thing would be brought before this Committee, and two gentlemen that were Conservative in principle, and I, were present.

1492. Were they tenants in the village?—They were, and they are tenants in the village still.

1493. They requested Mr. Smith to come here to give evidence?—Yes, and they requested me to come to.

1494. You came at their request?—Certainly, or I would not have come.

1495. You represent the villagers generally, I presume?—Yes, I do, or I would not have been here.

1496. You have no special interest either way, except to do your duty to your fellow villagers?—My only interest in the affair is to work for the interest of the poor villagers. Of course we, as tenants, are partly interested, because the burden must come upon the tenant, as well as upon the feuar, if there is an increase. It consists with reason, that the tenant must bear a share of the burden.

1497. You know Mr. Brown, the schoolmaster, I presume?—Yes, I do.

1498. How did he come to present himself as a witness?—He would come at the factor's instigation, I suppose.

1499. At the factor's instigation?—I expect so; and two or three land-grabbers.

Sir *Charles Pearson.*

1500. Do you say that of your own knowledge?—Of my own knowledge?

1501. Yes?—I say that.

1502. Do you say it of your own knowledge?—Yes, I do; for this reason I say it, that I have not met with any person in the village that gave him any authority.

1503. That is your reason?—That is my experience.

Mr. *Renshaw.*

1504. It does not follow that he had the factor's authority, does it?—It follows from this, that if he had authority, it would be that of very few persons.

1505. That is a totally different statement?—Yes.

Dr. *MacGregor.*

1506. At all events, he did not come here at the instigation of the villagers?—No, there was no instigation, so far as I know.

1507. So that the presumption, at least, is that he came at the instigation of the other side?—Yes.

1508. Do you know Mr. Beattie, the tailor?—Yes, I do.

1509. How came he to appear?—On the same ground, I expect.

1510. The villagers did not ask him to come, did they?—No, they did not.

1511. He did not represent them. Do the villagers, speaking generally, wish for more land?—Yes, they do, the great bulk of them.

1512. At a fair rent?—At a fair rent.

1513. Have they applied for it?—Some of them have spoken about it.

1514. There has been no joint application?—No direct joint application.

1515. Have you reason to think that if an application was made, it would be complied with?—We have no reason to suppose that.

1516. You really think you would not get the land?—I have no reason to suppose other than that. If we had had hopes of an amicable settlement to the satisfaction of the people, there would have been no need for coming here.

1517. May I ask how long you have been a justice of the peace?—I was only sworn in last year.

1518. Was that on the recommendation of the Lord Lieutenant?—I do not know on whose recommendation it was; I know nothing of it.

1519 At all events, you are a fair representative of your class. What is it the villagers, the residents of New Castleton, want; what is it they desire in the circumstances?—Well, they want to retain their holdings on fair, reasonable terms.

1520. What would you consider these terms?—Well, I scarcely consider myself capable of presuming to judge what ought to be equitable terms between them and his Grace.

1521. Would you submit the matter to valuation then, or what?—Yes, I would, quite willingly, provided that both parties were represented in that valuation.

1522. You think they are charged too high rents now, do you not?—I think the increase of the feu duty is too much.

1523. Would they be willing to remain on as they are, without any increase as to land rent, viewing the state of dilapidation that the houses are in?—I scarcely understand the question.

1524. They object to the terms proposed by the estate?—Yes.

1525. What are they willing to accept?—They are willing to accept, and they will have to accept, the 35 years alternative; there is nothing else for them but to accept that if there is nothing better offered.

Dr. *MacGregor*—continued.

1526. Or turn out, I suppose?—Or turn out.

1527. It simply amounts to this: they must leave or take those terms?—Yes.

1528. And you say these houses are falling down?—Certainly.

1529. Has that been represented to the factor, or to the landlord?—Well, the factor, if he had been looking after his duty, surely ought to know that as well as I do. A factor, if he is looking after his business, ought to know in what condition his properties are.

1530. Then I take it, you view the proposal made on the part of the estate as unjust and unreasonable; is that your opinion?—Which proposal do you refer to?

1531. The offer now made to the tenants?—Thirty-five years?

1532. Yes?—Well, it is better than the first offer; I say it is an improvement on the first.

1533. But you are not satisfied with it even now, I gather?—Still the people are not satisfied. One great thing that they would like is fixity of tenure for the land, and likewise more land, because a number of people make money by rearing young cattle; they send them away to farms in Dumfries-shire and Cumberland; they graze them in summer, and they go and win hay off the hills to keep them in winter, whereby they can earn a little money by selling these cattle. That is one proof as to why the village require more land, certainly.

1534. Do you know what the Crofters Act is?—I have seen a little about it; I am not thoroughly conversant with it.

1535. You do not know whether you would like it to apply to New Castleton?—I think it would be a boon, so far as I understand the Crofters Act.

1536. To have it extended to New Castleton and that district?—Yes, I do.

1537. In fact, the people want more land at a fair rent?—Yes.

1538. With fixity of tenure, compensation for improvements, and so forth?—Yes.

1539. That is what they want, you think?—Yes.

1540. Do you think the villagers are in favour of legislation in that direction?—They are in favour of anything that would give them that.

Mr. *Dalziel.*

1541. Do you remember what the population is just now?—It is a little over 900. I do not think I ever saw the exact figures of our last census.

1542. How is that compared with your own knowledge, say, 50 years ago?—It will be very much about the same for very many years; it was only during the few years that the railway was making that the population was increased; with the exception of those few years the population is much about the same. I believe we are a little higher than perhaps we would be, say, about 50 years ago.

1543. But there is not very much difference?—There is not a great deal of difference.

1544. You say that you remember in your own time when a very large number of young men

Mr. *Dalziel*—continued.

men used to go to work from the village?—Yes, both men and women.

1545. Is that the case now?—No, as I have told the Committee, there are scarcely any go now; there is no employment for them.

1546. Do the young men stay about the place now, or what do they do?—They cannot stay about the place, they have to go away where they can get a living.

1547. Where do they go to?—Wherever they can get work.

1548. Not in the neighbourhood at all?—No; there are a great number of our young men far away.

1549. Do you imagine that if what you suggest was granted, fixity of tenure and such like, and a reasonable amount of land, the young men would stay there?—They would, certainly a good deal more of them stay, because there would be work for them to do, and means of maintenance.

1550. You think trade would be better in fact in the whole place?—It must be, it would certainly follow.

1551. I see Mr. Brown, in his evidence, said there was no poverty whatever in the village; is that the case; he said that poverty could scarcely be said to exist in New Castleton; I think he said there were only 11 paupers?—I think you would find more than 11 paupers.

Mr. *Renshaw.*

1552. What is the poor rate?—Well, I forget what I paid last year. We do not remember our poor rates very much; you need not smile at that, I would rather they were increased, and that our poor got more money. I must honestly tell you it is not a question of smiling, but a simple question of defect of memory when I say I cannot tell you.

Sir *Charles Pearson.*

1553. Do the majority of the villagers make their livelihood out of the holdings alone?—Oh, no; there are very few of the villagers who make their livelihood out of the feus alone; in fact, they cannot, it is impossible, they have not a sufficient quantity of land.

1554. What is your idea of the average size of the land under stock per house?—The land for each house?

1555. The average amount of land for each house, roughly speaking?—For one cottage house there are two acres of land allowed, and a cow stent on the holm hill; for a two-story house there are four acres allowed and a cow stent on the hill.

1556. To make a living you would require two or three times that quantity, I understand you to say?—Yes, certainly.

1557. Are these plots of land used as a source of profit?—Yes.

1558. But contributing towards other means of livelihood?—They are used as a source of profit.

1559. As a source of profit and as a contribution to other means of livelihood?—Yes, as a help to other means of livelihood.

1560. Do you know whether any proposals have been made in recent years for the planting of industries in the village?—No, I am not aware of any. I have not heard of any for a great number of years.

Sir *Charles Pearson*—continued.

1561. The instance you gave of that was 40 years ago?—Yes, I think it was more than that.

1562. What was the nature of the proposal?—It was a manufacturing interest; they were parties who wished to build a manufactory.

1563. Would it be a wool mill?—Yes, a woollen mill.

1564. I think you said the ground which you marked "A" "B" on the plan was given off about 50 years ago?—Yes, I think it will be a little over that; I cannot give just the exact dates from memory.

1565. About 50 years ago?—Yes.

1566. Just at the beginning of your time?—Yes, I was a good-aged boy when *these* were taken in.

1567. We cannot exactly see from the map, but is that on the hillside, from "A" to "B"?—Yes, it is all hill.

1568. From "A" to "B" is hill?—Yes, the whole of it.

1569. Will you please be a little more precise; when you say "the whole of it," we do not know what that is. The land from "A" to "B" is what you are speaking of?—Yes.

1570. You say the plots from "A" to "B" are hillside?—Yes, hillside.

1571. Was that given off with relation to the building of new houses in the village?—No; it was given off on representations being made to his Grace for an increase of land at that time, and there was a number of the houses that had been built, and built for many years, but had not a stent on the holm hill, and consequently they got a field there, for a cow stent on the hill. That is the way they got it.

1572. Now, I understand you to say that before these fields from "A" to "B" were taken in it was rough hillside?—Yes.

1573. Peat and heather?—Peat and heather, a good deal of it.

1574. A good deal of it was peat and heather, but some of it grass?—Along the plantation side there were some grass parks.

1575. Along the north side?—Yes; along the north side there were some grass parks, but previous to that the other was heath.

1576. You spoke of the holm land?—Yes.

1577. I am not speaking of the holm hill but the holm land; you know that?—Yes, quite so.

1578. Was it on the holm land that the older plots were which were parcelled out among the houses originally built at the beginning of the 99 years' leases?—There was only part of it holm land; the other was what we call hill land.

1579. Which side?—Both the east side and the west side of it.

1580. Then kindly show me the plots given out with the original houses 99 years ago. (*The Witness pointed out the position on the plan.*) With the exception of the fields from "A" to "B" the bulk of the fields shown on the plan were given out at the beginning of the leases, were they not?—Yes.

1581. These latter plots include what is properly called the holm land?—They include the holm land.

Sir *Charles Pearson*—continued.

1582. They include the holm land, but extend up the hill?—The great bulk of them are "hill," not "holm;" there is a very small portion of holm land, bear in mind.

1583. You, of course, have no knowledge of the actual condition of the original plots, it being far beyond your own memory?—It is beyond my memory; I speak only from what I have heard from information handed down from sire to son.

1584. Tell me about the holm land proper, what do you say as to that; was that ever bog and heather, according to the information handed down?—It would be "bog" enough; there is some of it bog enough at present, what we call "bog," there is some of it which in wet weather you can scarcely wade on.

1585. You know what I am speaking of; you did not use it in that sense. I am speaking of bog and heather, or peat and heather?—I beg your pardon. When we talk about bog we talk about that damp wet land that will grow a sort of sag, we call that a bog. Now the heath and heather we look upon in a different way. Allow me to give an explanation; when we talk about bog we talk about wet land that you scarcely dare set a foot upon, that may be in our holm position, and some of it still remains there in our holm position.

1586. In the fields that are appropriated to the houses?—Yes.

1587. Which do you say was the best land included in the plots; which would you say was the best land at the present moment?—Oh, the best land about the whole village was taken the other year for an auction mart.

1588. I said "in the plots"?—That was in the plots.

1589. Show me where it was then?—*There* it is (*pointing out the same position on the plan*).

1590. At the north end of the village?—*That* is on the north-east side of the village. Now, *that* for all time in my memory was the best land that there was about our village. In the south-west below the village there are some very good fields. The road field which was referred to in some person's evidence, as I heard read in a letter, belonged to Mr. George Hall; that was a very good holm field.

1591. Are all of them under grass?—No, part of them are cultivated with corn and potatoes and the like.

1592. How much would be arable?—I could not give the acreage, but not so much now as formerly, for the simple reason that crops are very much destroyed with game and one thing and another; for instance, I myself lost an acre of potatoes in my experience, totally lost.

1593. With game?—With vermin of some kind; I cannot say what. The birds ate them, but they were totally pulled up.

1594. That would be crows; would it be pheasants, do you think?—Pheasants are very bad on both potatoes and turnips, and there is not nearly so much cropping as we had formerly.

1595. Can you give me, roughly speaking, about how much of the land in those plots is arable and about how much pasture; that is what I want to be at; is it about a third or a fourth?—No, there is not near a quarter of it.

Sir *Charles Pearson*—continued.

1596. Not a fourth?—No, not near a fourth, I would think; an eighth, or scarcely an eighth, under what you may term cultivation under the plough.

1597. I said arable?—There is a good deal capable of cultivation under the plough; even that moss land, after you get it drained, is very capable of cultivation under the plough.

1598. But it has been going into grass for the reasons you have told us?—Yes.

1599. Will you explain what you mean about the valuation in 1857 having resulted in the valuation being increased threefold in one plot, and not increased at all in the next plot?—I cannot explain it otherwise than on the view one field was improved and the other was not.

1600. Then it was a valuation of the value of the land as it stood, the one part having been improved and the other not?—Yes.

1601. Did both the plots you have in your mind appertain to houses at that time?—Both the plots appertained to houses, and I believe they both appertained to houses belonging to one man at the time they were valued; at least they were given off both to one man, and I believe they were still in his own possession; he sold one of them, I think it was, a little after that.

The *Solicitor General for Scotland.*

1602. There is one point I want to ask a question about. Talking about means of livelihood, is it within your knowledge that the sons who go away and do well send the means back to their parents and friends living in the village in order to enable them to pay the rent?—Yes, plenty of them do that. We have something better than that. We have our sons from New Castleton living in London who have a society, and they send down every year so much money to be divided among the poor of the village of New Castleton; and one who went to Australia, for a great number of years, has sent 25*l.* a year to be divided among the poor. Not only do they assist their own kindred, but they assist their fellow villagers.

1603. And of course there is a great disinclination on the part of your villagers to go on the rates?—Oh, there is a very strong feeling against that.

1604. And having these funds to draw upon that is not absolutely necessary?—There is a very strong feeling against going on the rates.

1605. A witness has said, as the honourable Member for Kirkcaldy pointed out, that poverty can scarcely be said to exist in Newcastleton; you have explained to us how poor the people are and how they are assisted; is not that so?—I scarcely understand that representation to say that no poverty existed at Newcastleton.

1606. It does not square with the facts in your knowledge?—No, it does not.

Dr. *MacGregor.*

1607. You said that some of the best of the land was appropriated for an auction mart?—Yes.

1608. W a

Dr. *MacGregor*—continued.

1608. Was that taken from the villagers?—Certainly, it was taken from the house of Mr. Cook, the baker.

1609. Did he get compensation for it?—It was not in his possession at the time it was taken; the land was taken from the house before he entered it; the land was taken and given to a former tenant in the house when he left it. When he left the house he took the land with him by the authority of the superior.

1610. Was there any compensation made for taking the land?—No.

1611. As I understand, when the house was built land was promised with the house?—There is no compensation given when the land is taken away.

1612. Then we have been told that some tenants have been deprived of their possessions for political reasons; does that coincide with your knowledge in any way?—Well, I cannot give a reason; no reason was given.

1613. But that was so?—It was a fact that the land was taken away, but there was not a reason given. We are like the British soldier at New Castleton, we have "not to reason why."

1614. So that you would imagine it was for political reasons?—There is the strange coincidence.

Mr. *Dalziel.*

1615. Did they stay in the house and lose the land?—One party who lost the land. His mother was living in the house, and that party was the late Mr. Hall, of London; his mother was residing in one of the houses that the land was taken from; some relations were residing in other of the houses, at the same time the land was taken from the late Mr. Wilkie that ought now to belong to his heirs.

Dr. *MacGregor.*

1616. What became of the land; was it given to other parties?—Certainly.

1617. In the village?—Yes.

Dr. *MacGregor*—continued.

1618. Added on to other crofts?—Yes, added to other crofts.

1619. And those people who were deprived of the land had to turn out, I suppose, had they?—Well, they did not turn out. The late George Hall, Douglas-square, was a distant relation of the other Halls that I referred to, of London, and I think the name has been referred to, in a letter or something, here. The rents of the late George Hall, of Douglas-square, and a man of the name of Robert Little (at the same time that the land was taken from Mr. Hall, of London) and Mr. Wilkie, were increased in rent very much, although they were residing on their crofts and occupying the land themselves.

1620. Was there any ground for supposing that it was for a political reason that the land was taken away?—There was this strange coincidence, that when it was taken from them they were known to be Liberals; Mr. Hall's and Mr. Little's rents were increased in value, and they were known to be Liberals; Mr. Hall's was so much increased in value that Mr. Hall's widow gave up the land; it was not taken; his widow gave it up after his death because she was a loser, but, at the same time, Tories are allowed to retain the land and sublet it without let or hindrance, who are not residing in the village. These are strange coincidences that require to be answered. I cannot give a reason why the land was taken.

1621. You told us that your crops were sometimes ruined by game?—Yes.

1622. Does the landlord give you any compensation for that?—I have not heard of any being got yet, and allow me to say there is another circumstance I wish to point out since you have brought this question before me; these fields, which were taken from Mr. Wilkie and part of them given to a non-resident man, were said to be taken from him because he was not living on the land, but these two fields that were taken from Mr. Wilkie were given to a man who was not residing in the village at all, and he was allowed to sublet them.

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APPENDIX.

APPENDIX, No. 1.

PAPER handed in by Mr. *W. Hall*, 18 April 1894.

CONDITIONS of FEU of BUILDING SITES in the Village of *Newcastleton, Roxburghshire*, belonging to HIS GRACE THE DUKE OF BUCCLEUCH AND QUEENSBERRY, K.T., &c.

Management of Feus.

1. The lands intended to be fued shall be measured off by superior surveyor, whose measurement shall be final and binding on the parties, and the feuar shall pay one half of the surveyor's fees.

Reservation of Minerals.

2. All minerals, mines, stone and sand shall be reserved to the superior, with power to work, win, and calcine the same, the feuar being entitled to compensation for damages occasioned to the surface of the ground only, or to the buildings thereon. Such compensation shall, failing agreement, be fixed by two arbiters mutually chosen, or by an oversman appointed by them in case of their differing in opinion.

Feu Duty.

3. The feu duty, which shall run from the date fixed in the offer to feu, shall be payable half-yearly, at Whitsunday and Martinmas following, and the feu duty shall bear interest at the rate of 4 per cent. during the non-payment thereof after the same shall become payable.

Buildings.

4. Not more than one stone and slated dwelling house or villa, with or without offices, shall be allowed to exist or be maintained upon any feu except with the special leave, in writing, from the superior. Each dwelling house with the offices, if any, shall be self-contained and shall not be divided up for the accommodation of more than one family, and shall not be separately occupied by more than one family at any time, unless with the written consent of the superior. The dwelling house and offices shall be in all time coming maintained of such value as shall be agreed on and fixed in the offer to feu. In the case of feus for other purposes, the buildings agreed on between the superior and the feuars shall be erected within such time, and maintained of such value, as shall be specially arranged in view of the uses to which such feus will be put.

Plans, Elevations, and Sites.

5. Any new buildings shall be built according to plans, elevations, and specifications, and upon sites submitted to and approved of by the superior, and no external alterations of any kind shall be made upon the buildings erected upon any feu without the consent in writing of the superior or his chamberlain.

Ground unbuilt on.

6. The ground unbuilt upon shall be laid out and kept as garden, and shall be used for that purpose only, unless with the superior's written consent.

No Subdivision of Feu.

7. No feuar shall have power to subdivide his feu.

Enclosing Walls.

8. Each feuar shall be bound to enclose his feu. Except where specially otherwise arranged, and where not already done, the back and sides shall be enclosed by fences to the satisfaction of the superior.

Mutual Walls, &c.

9. The superior shall not be bound to pay for the mutual gables or division walls betwixt any of the lots or building stances whether adjoining lots are feued or not. Where gables and division walls or fences are not mutual, as where they adjoin streets, lanes, and ground not intended to be feued, they shall be built wholly on the feuar's own ground, and erected and maintained at his own expense. No buildings shall be erected on mutual walls or fences without consent of the parties interested in such walls or fences, as well as of the superior.

Roads.

10. The feuar shall, where necessary, make and maintain, either wholly at his own expense or mutually with the opposite feuar, roads, footpaths, or lanes along the boundaries of his feu, and the superior shall have power to open the said roads, footpaths, or lanes to the feuars and the public.

Drains, &c.

11. In case any drains or roads for the whole or any part of the grounds be made under the authority of the police or other Acts of Parliament, the feuars shall be bound to pay for the expense of such as assessed under said Acts. The superior shall not be held to guarantee an outlet for the drainage. The feuars shall not, under any circumstances, connect their drains with any burns or streams flowing through or by their feus.

Restrictions on use of Buildings.

12. The feuars shall not sell spirits, wines, or malt liquors on their feus in any case, and they shall not erect or maintain upon their feus any steam engine, nor work or carry on any distillery, manufactory of soot or blood, brewery, candle work, soap work, tan work or kilns, whether they constitute a nuisance or not, nor any nauseous or noisy manufacture which may be considered a nuisance by the public or neighbourhood, as in case of complaint the superior shall determine.

Reservation of Streams.

13. The superior shall have the sole and exclusive right to the whole burns and streams of water flowing through or upon the lands adjacent to the ground feued, with right to apply the same for his own exclusive use as he shall think proper.

Composition of Feu-rights, &c.

14. The original feu-rights shall be granted to the feuar, excluding assignees before infeftment or investiture ; and the said feu-right shall be recorded on behalf of the feuar on the investiture otherwise completed within six months from the date or last date of the deed, and all the conditions of the original feu-rights shall be inserted in the notarial or other instruments to follow thereon, and shall be specially referred to or inserted in all subsequent conveyances. Otherwise in the option of the superior the feu-right of the lot, in regard to which such omission is made and all that has followed thereon, shall, without the necessity of any declarator or order of law, become *ipso facto* void and null, and the lot of ground, with all the buildings erected thereon, shall revert and return to the superior. The superior shall add such irritant and resolutive clauses as may be necessary to fence the conditions of the feu-right.

Superior's Titles.

15. The superior shall not deliver his titles to the feuars, but shall undertake to produce a legal progress on all necessary occasions upon a receipt and obligation for redelivery of the same under a suitable penalty, and the feuars shall not be entitled to ask for a search of incumbrances or restriction of any securities which may affect their feus.

Expense of Charter.

16. The feuar shall, in each case, bear the whole expense of the preparation and revisal of the feu charter and relative plans.

APPENDIX, No. 2.

PAPER handed in by the *Lord Advocate*, 20 June 1894.

Irvine House, Canobie, N.B.,
26 May 1894.

Sir,

Mr. William Hall gave evidence last month before the Special Committee of the House of Commons on Feus and Leases in Scotland, and stated that in the year 1878 he and other members of his family had been deprived "for political reasons" of land near the village of New Castleton, held from the Duke of Buccleuch. On the 2nd instant I gave evidence before the Committee and directly denied that Mr. Hall or anyone else had been deprived of land or suffered loss of privilege of any sort for political reasons since 1876, when I had been in charge of the Duke of Buccleuch's estates in Eskdale and Liddesdale, in which last New Castleton is situated. Mr. Hall then, on the 2nd instant, offered an explanation to the Committee to the effect that he had been mistaken as to the year in which he had lost his land, that it had taken place in the year 1868 in the time of Mr. Carthew-Yorstoun's predecessor and not in 1878, and moreover that his brother, George Hall, who had always resided in the village, lost his land at the same time and for the same reasons, and that therefore it could not have been on account of non-residence, as was the cause assigned in his, William Hall's, case. It has been suggested to me that I should make some explanation of Mr. Hall's further evidence, and therefore I venture to ask you as Chairman of the Committee to allow me to do so, and to permit this letter to be added to the record of the Minutes of Evidence taken by the Committee. Mr. W. Hall is again mistaken both as to his own and George Hall's deprivation of land in 1868. I have personally examined carefully the estate ledgers, and am ready to vouch positively that no one of the name of Hall was, for any reason whatever, dis-possessed of land near New Castleton between 1857, the earliest date to which I carried the search, and 1878, when I myself removed the Halls from their lands for having sublet them without authority, and at higher rents than were paid to the estate. There were five persons of the name of Hall in the estate books, and I give a short summary of the entries against each one, so that there may be no mistake as to identification of the person, or the land, or the date :—

1. Hector Hall, 25 & 26, Montagu-street.
   Sold the above to the Parochial Board in 1863 ; never had any land.

2. William Hall, 27, Langholm-street.

	A.	R.	P.	£.	s.	d.
From 1857 tenant of Field 61	2	–	24	1	7	11
„ „ 37	2	1	9	1	3	–
				£. 2	10	11

   He sold the house to William Nichol in 1867. William Nichol was then entered as tenant of the land at 2*l.* 10*s.* 11*d.* and has it still.

3. Walter Hall, 35, North Hermitage-street.

	A.	R.	P.	£.	s.	d.
From 1857 to 1870, tenant of Field 54	2	0	0	2	12	–
In 1870, rent was raised 13*s.*				–	13	–
				£. 3	5	–

   In 1878 the land being sub-let to Hugh Armstrong, was taken from Walter Hall, and Hugh Armstrong entered as tenant.

	A.	R.	P.	£.	s.	d.
From 1857 to 1870, tenant of Field 15	2	0	30	1	17	2
In 1870, rent was raised 12*s.* 10*d.*				–	12	10
				£. 2	10	–

   In 1878, the land being sub-let for 3*l.* 3*s.*, was taken from Walter Hall and let to James Elliot.

4. George Hall, 19, Douglas-square.

	A.	R.	P.	£.	s.	d.
Up to 1870, tenant of Fields 4 and 5	3	3	37	5	9	8
In 1870, rent was raised				3	3	8
				8	13	4
Also one cow's stent				1	6	8
				£. 10	–	–

In 1878, the land and stent having been sub-let, were taken from George Hall and let to Robert Arres for 10*l.* In 1889, R. Arres left the place, and the land as above was let to Jane and Ellen Scott, who had bought the house, 19, Douglas-square, from George Hall's heir.

It will thus be seen that none of the Halls were dispossessed of land in or near 1868, and that in 1878 I myself removed them for sub letting without sanction, and by no means "for political reasons," as I strongly denied in my evidence before the Committee on the 2nd instant. Mr. W. Hall's explanation is as much in error as his previous evidence. In justice to myself and to my predecessor, the late Mr. James Connell, I trust you will permit the above denial of the injurious charges made against us by Mr. Hall to appear in the record of evidence.

I am, &c.
(signed) *M. Carthew-Yorstoun.*

The Right Hon. J. B. Balfour, Q.C., M.P.,
The Lord Advocate.

APPENDIX, No. 3.

PAPER handed in by the *Lord Advocate*, 20 June 1894.

Casualties.

Much of the difficulty and divergence of opinion on the subject of both feu duty and casualty has arisen from a radical misconception of the nature of the subject dealt with. Feu duty is popularly regarded and treated as a burden on the land feued, as a parasite on the property which pays it; and casualty as an impost put by a dominant and domineering "superior" on a helpless and reluctant "vassal."

But a feu duty is not a burden and it is not a parasite, it is a separate and distinct estate and property, the transaction out of which it arises is not one of hypothec but of sale. This is well expressed by Lord Watson in his judgment: "That debt is not in any proper sense a burden upon the feuar's right; it represents the estate or the real interest of the superior in the lands. The feu charter, by virtue of which the vassal becomes vested in the *dominium utile* (*i.e.*, the right of property), does not constitute, but limits, the estate of the superior; and consequently the superior's *reddendo* (*i.e.*, the feu duty), which is in substance real right reserved to the superiority out of the land feued, is a heritable estate or interest in the lands, paramount to the estate of the vassal."

Sandeman *v.* Scottish Property Society, 1885.

In modern and financial phrase and fashion, the transaction may be described as in its nature a "splitting" of the property dealt with into a preferred and deferred stock. You do not call the preferred segment of the ordinary stock of a railroad a burden on the deferred, you recognise the preferred as a separate and independent segment quite apart from the other and deferred segment.

The transaction of feu stated in ordinary business language and stripped of the archaic garments in which it is clothed by conveyancers is this: "A" comes to "B" and says, "I wish to acquire a bit of your land to build a house upon, but I have not the money to pay for it, and you probably do not want to sell it; if you will let me take your land on a perpetual tenure, I will pay you so much as an annual payment, and I will give you the security of the house I build to keep you safe." When the transaction is complete the house is built. We have then the feu duty belonging to "B" and the house belonging to "A"—"B's" land represented by the feu duty, "A's" house by its rent.

But "B" sometimes, or perhaps frequently, has a reluctance to part finally and absolutely with his land; he has confidence in its ultimate value; and he discerns possibilities of further increment in which he desires to retain an interest. He therefore says to "A", "I am willing to let you have this bit of land at 5*l.* a year, but you must pay me another 5*l.* every tenth or nineteenth year;" or he may say, as was generally said in former times by the superior, "I do not choose to part absolutely with all interest in the use and prosperity of this property; you may have it at 5*l.* a year on condition of your building upon it or improving it, but if you sell it you must pay me a year's rent of the improved subject, or when you die, your heirs must pay me one year's rent; then I and my successors will thus participate in the future growth of this property." On the one hand, these occasional windfalls are no doubt very irregular and intermittent, and so far, one would say, are unfavourable forms of property to hold; on the other hand, they do embrace the rent of the house, for which the superior did not pay, as well as of the land for which he did; they are an infrequent burden but a heavy one when they come; readily undertaken because lightly regarded when distant, but resented with a bitterness often due to the recognition of this want of foresight when they fall due. It is obviously expedient that charges so irregular in their incidence, and therefore comparatively so heavy when they do fall, should be discouraged, and where possible be converted into regular and termly payments.

The principle and expediency of such occasional and intermitting burdens have been recently somewhat keenly debated in America in consequence of some of the States having resorted to an elaborate system of death duties for the purpose of taxation. There are eight grounds or reasons alleged as justifying the imposition of such duties for the purpose of general taxation, but of these the majority are applicable to pure taxation only. There are three which, however, illustrate very well the reasons which no doubt originally, though perhaps insensibly at the time, suggested this form of payment in the case of feus. First, as a tax on inheritance it must be borne in mind that the right to transmit property on demise is not an inherent right, and that the superior, according to the ancient ideas, was entitled, just as the Crown is now entitled, to exact payment for recognising the right to bequeath or to succeed, waiving the right to escheat. Second, there is the idea of payment withheld, *i.e.*, of the rate of feu duty being less for the past than it ought to have been, and that deficiency being compensated by these periodical or occasional extra payments. That this is a substantial ground is proved by the very remedy for casualties which is generally admitted, viz., to add to the amount of the feu duty, thus demonstrating that the casualty represents the deficiency of the annual charge. Then, thirdly, there is the idea of service rendered, at making up the title to an ancestor, or on completing the title to a purchaser, the superior is required to do something, grant a charter or some act of this class, and just as the State exacts an inheritance tax to cover *inter alia* the trouble to which it is put by recording the death of one owner and the appearance of another, so the superior exacts a payment to compensate him for the trouble he is put to.

The principles which justifiably regulate imposts levied by legislators so modern as those of Minnesota and Wisconsin can hardly be called antiquated or obsolete, or be attributed to the atrocities of feudal aristocrats; it may be assumed, without much fear of error, that the motives which regulate men in levying imposts on each other most efficaciously and conveniently were common to the ninth and nineteenth centuries.

If, then, we get rid of the alleged immorality of casualties, we may hope to be permitted to extend to them the same just dealing which we are permitted to extend to the owners of tea and sugar; and if it be deemed desirable in the public interest to destroy that form of property, to do so by compensation not confiscation, to deal fairly not unfairly, and not to enrich the vassal "A" by despoiling the superior "B."

I think it is desirable to get rid of that form of property which is calculated to provoke antagonism between two classes of owners without doing any service to the community, and at the same time to provide a form of property suitable for investments, especially of the smaller class; and no doubt casualties, as at present constituted, do offer a sort of gamble which it is not salutary to foster.

I am of opinion, therefore, that the course suggested by recent Committees ought to be adopted and more fully followed out, and I suggest the following:—

1. Let a Commission be issued for the purpose of determining the value of all casualties submitted to its arbitrament.

2. Let that Commission last till 31st December 1899, with power to the Crown to extend its existence for not more than two years longer.

3. Enact

3. Enact that no casualty shall be exigible after 1st January 1890.

4. Let the Commission fix the value of each casualty, after taking all circumstances into its consideration and issue its finding, declaring (1) the corresponding addition to be made to the existing feu duty by way of annual payment; or (2) the amount to be paid in cash by the vassal to the superior; or (3) the amount to be made a burden on the few as a debt immediately postponed to the feu duty but taking precedence of all bonds or burdens. The judgment of the Commission to be recorded in the Register of Sasines, and such judgment to be stamped with an *ad valorem* stamp as may be fixed by Parliament.

In this way all casualties would end with this century; and the owners of casualties would be fairly dealt with. No rough and ready way of dealing with the matter can be fair; it is vain to apply the same measure to one casualty payable on the death of a boy of nine, and to another payable on the death of a man of ninety, or to a casualty on transfer of a tenement in Glasgow, which may be sold ten times in a century, and to one on an estate held under entail which may not be sold twice in two centuries; many cases to be justly dealt with must be dealt with individually, and while principles may be laid down in general terms their application may vary with the many circumstances of life and situation.

There is an admitted dearth of investment suitable for small investors, and I think an effort might well be made to bring feu duties under such a method as would make them a very favourite and certainly a very suitable form of investment.

Let a separate register be introduced, into which every feu duty arbitrated upon by the Commission should be recorded, and any other feu duties which the owners may desire to register, and let a certificate be issued under the hand of the Registrar which shall be the title to the feu duty. Let there be issued simple forms of sale and hypothecation, and let the fiat and signature of the Registrar establish the title to transferee or the creditor.

I append an illustration of what I would propose.

Edinburgh, 12 June 1894. *George Auldjo Jamieson.*

REGISTER OF FEU DUTIES.—CERTIFICATE OF OWNERSHIP.

Edinburgh, 1 June 1900.

This is to certify that John Smith, of No. 20, George-street, Edinburgh, is the proprietor of a Feu duty of Ten pounds per annum, payable at Martinmas yearly, out of the tenement, No. 40, Queen-street, in the Parish of St. Andrews and City of Edinburgh.

David Jones, Registrar.

Note.—Transfers of this feu duty to be valid, must be made on the statutory form and duly registered. On the back of this document, under the title of "Ownership" will be found a note of any transfers made, and the last transferee whose name is there given is the owner of the feu duty, and is entitled to receive and discharge or to surrender the same to the owner of the subject out of which the feu duty is payable.

Bonds or dispositions in security or other burdens to be valid, must be made in the statutory form and duly registered; on the back of this document, under the title of "hypothecation," will be found a note of the burdens created with the date thereof; when these are not marked as discharged, they are still subsisting, but until due notice is served on the vassal the receipt of the owner is a sufficient discharge to the vassal.

EXTRACTS and NOTES from the Register of Feu Duties, relating to the Feu Duty specified in the front of this Document.

OWNERSHIP.			HYPOTHECATION.				EXTINCTION.	
Date of Purchase.	Name of Transferee or Purchaser.	Date of Sale by Transferee.	Date.	Name of Creditor.	Amount.	Date of Discharge.	Date.	Name of Vassal Owner in whose favour Feu Duty surrendered.
					£. s. d.			
11 Nov. 1900	Jacob Israel -	15 May 1901	15 May 1901	Moses Levi -	50 - -	11 Nov. 1902	—	—
15 May 1901	James Johnston	—	11 Nov. 1902	James Thomson	150 - -	—	—	—

APPENDIX, No. 4.

PAPERS handed in by Mr. *Thomas Simpson*, 20 June 1894.

NOTICE.

Representations having been made to his Grace the Duke of Buccleuch that some of the tenants of houses in New-Castleton may not be able to take perpetual feus of their respective holdings, the undersigned is authorised to make known to all concerned that, in place of perpetual feus, present tenants will be permitted to renew the old leases of their holdings for 35 years on the same terms and conditions as before.

All tenants of houses in New-Castleton are requested to state clearly to the undersigned, within one month, whether they wish to take feus or renewed leases for 35 years.

The cost of feu charters for single areas will be restricted to not more than 50*s*., besides outlays for stamps, &c.

There will be no charge to feuars for survey of plans.

Irvine House, Canobie,
2 March 1894.

M. Carthew-Yorstoun.

CONDITIONS of Feu of Building Sites in the Village of New-Castleton, Roxburghshire, belonging to His Grace the Duke of Buccleuch and Queensberry, K.T., &c.

Management of feus.

1. The lands intended to be feued shall be measured off by superior's surveyor, whose measurement shall be final and binding on the parties, and the feuar shall pay one-half of the surveyor's fees.

Reservation of minerals.

2. All minerals, mines, stone and sand shall be reserved to the superior, with power to work, win, and calcine the same, the feuar being entitled to compensation for damages occasioned to the surface of the ground only, or to the buildings thereon. Such compensation shall, failing agreement, be fixed by two arbiters, mutually chosen, or by an oversman appointed by them in case of their differing in opinion.

Feu duty.

3 The feu duty, which shall run from the date fixed in the offer to feu, shall be payable half-yearly at Whit Sunday and Martinmas following, and the feu duty shall bear interest at the rate of 4 per cent. during the non-payment thereof after the same shall become payable.

Buildings.

4. Not more than one stone and slated dwelling-house or villa, with or without offices, shall be allowed to exist, or be maintained upon any feu except with the special leave, in writing, from the superior. Each dwelling-house, with the offices, if any, shall be self-contained, and shall not be divided up for the accommodation of more than one family, and shall not be separately occupied by more than one family at any time, unless with the written consent of the superior. The dwelling-house and offices shall be in all time coming maintained of such value as shall be agreed on and fixed in the offer to feu. In the case of feus for other purposes, the buildings agreed on between the superior and the feuars shall be erected within such time, and maintained of such value, as shall be specially arranged in view of the uses to which such feus will be put.

Plans, elevations, and sites.

5. Any new buildings shall be built according to plans, elevations, and specifications, and upon sites submitted to and approved of by the superior, and no external alterations of any kind shall be made upon the buildings erected upon any feu without the consent in writing of the superior or his chamberlain.

Ground unbuilt on.

6. The ground unbuilt upon shall be laid out and kept as garden, and shall be used for that purpose only, unless with the superior's written consent.

No subdivision of feu.

7. No feuar shall have power to subdivide his feu.

Enclosing walls.

8. Each feuar shall be bound to enclose his feu. Except where specially otherwise arranged, and where not already done, the back and sides shall be enclosed by fences to the satisfaction of the superior.

Mutual walls, &c.

9. The superior shall not be bound to pay for the mutual gables or division walls betwixt any of the lots or building stances whether adjoining lots are feud or not. Where gables and division walls or fences are not mutual, as where they adjoin streets, lanes, and ground not intended to be feued, they shall be built wholly on the feuar's own ground, and erected and maintained at his own expense. No buildings shall be erected on mutual walls or fences without consent of the parties interested in such walls or fences, as well as of the superior.

Roads.

10. The feuar shall, where necessary, make and maintain, either wholly at his own expense or mutually with the opposite feuar, roads, footpaths, or lanes along the boundaries of his feu, and the superior shall have power to open the said roads, footpaths or lanes to the feuars and the public.

Drains, &c.

11. In case any drains or roads for the whole or any part of the grounds be made under the authority of the police, or other Acts of Parliament, the feuars shall be bound to pay for the expense of such as assessed under said Acts. The superior shall not be held to guarantee an outlet for the drainage. The feuars shall not under any circumstances, connect their drains with any burns or streams flowing through or by their feus.

Restrictions on use of buildings.

12. The feuars shall not sell spirits, wines, or malt liquors on their feus in any case, and they shall not erect or maintain upon their feus any steam engine, nor work or carry on any distillery, manufactory of soot or blood, brewery, candle work, soap work, tan work or kilns, whether they constitute a nuisance or not, nor any nauseous or noisy manufacture which may be considered a nuisance by the public or neighbourhood, as in case of complaint the superior shall determine.

Reservation of streams.

13. The superior shall have the sole and exclusive right to the whole burns and streams of water flowing through or upon the lands adjacent to the ground feued, with right to apply the same for his own exclusive use as he shall think proper.

14. The

14. The original feu-rights shall be granted to the feuar, excluding assignees before infeftment or investiture; and the said feu-right shall be recorded on behalf of the feuar on the investiture otherwise completed within six months from the date or last date of the deed, and all the conditions of the original feu-rights shall be inserted in the notarial or other instruments to follow thereon, and shall be specially referred to or inserted in all subsequent conveyances. Otherwise in the option of the superior the feu-right of the lot, in regard to which such omission is made and all that has followed thereon, shall, without the necessity of any declarator or order of law, become *ipso facto* void and null, and the lot of ground, with all the buildings erected thereon, shall revert and return to the superior. The superior shall add such irritant and resolutive clauses as may be necessary to fence the conditions of the feu-right. Composition of feu rights, &c.

15. The superior shall not deliver his titles to the feuars, but shall undertake to produce a legal progress on all necessary occasions upon a receipt and obligation for re-delivery of the same under a suitable penalty, and the feuars shall not be entitled to ask for a search of incumbrances or restriction of any securities which may affect their feus. Superior's titles.

16. The feuar shall, in each case, bear the whole expense of the preparation and revisal of the feu charter and relative plans. Expense of charter.

APPENDIX, No. 5.

PAPER handed in by Mr. *Donald Crawford*, 27 June 1894.

A BILL to amend the Law relating to FEUS and LEASES for Building in *Scotland.*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Subject to the provisions of this Act, where land has been or shall be feued or let upon the condition that buildings were or are to be erected thereon by the vassal or lessee, any contract or agreement purporting— When land is feued or let for building certain conditions to be void.

(*a*) to entitle the superior or lessor to do, or authorise to be done, any act whereby such buildings may be injured, which but for such contract or agreement he would not have been legally entitled to do, or

(*b*) to release the superior or lessor from any liability to pay damages for doing injury to such buildings, or authorising any Act whereby injury was caused to the buildings, which but for such contract or agreement he would have been liable to pay,

shall be void.

2. Where, prior to the passing of this Act, land has been feued or let for building subject to any such contract or agreement as aforesaid— Provision for existing contracts.

(1.) It shall be lawful for the superior or lessor, at any time within six months after the passing of this Act, to give notice in writing to the vassal or lessee of his intention to resume possession of the land with the buildings thereon, on payment of the value of the buildings. Power to resume.

(2.) At any time within three months after the receipt of such notice the vassal or lessee may give notice in writing to the superior or lessor that he elects to abide by the existing contract, and in that case such contract shall remain valid and have effect according to its terms notwithstanding the provisions of section one hereof.

(3.) At any time within twelve months after the passing of this Act, the parties may modify the contract, and such modification shall be binding notwithstanding anything hereinbefore enacted.

(4.) Where the superior or lessor has given such notice as aforesaid, and the vassal or lessee has not given a counter notice as aforesaid, and a modification of the contract has not been agreed upon, the land shall revert to the superior, with the buildings thereon, upon payment of the value of the buildings, and vest in him as at the first term of Whit Sunday or Martinmas after the expiration of twelve months after the passing of this Act.

3. The parties, if they do not agree upon the value, may jointly appoint an arbiter to assess the same, whose decision shall be final, or each party may appoint an arbiter for the said purpose; and the arbiters, before proceeding to consider the matter submitted, shall appoint an oversman, whose decision, if the arbiters differ in opinion, shall be final. Arbitration.

4. The value shall be assessed as if no such contract or agreement as aforesaid had been made. Principle of valuation.

5. The expressions "superior or lessor" and "vassal or lessee" shall include heirs and scccessors. Interpretation of terms.

6. This Act may be cited as "The Building Feus and Leases (Scotland) Act, 1893." Short title.

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16 MAR 1071